Calendar No. 2717

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2671

PROVIDING FOR A STUDY OF THE POSSIBILITY AND DESIRABILITY OF ESTABLISHING A UNIVERSITY OF THE AMERICAS

JULY 20 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. GEORGE, from the Committee on Foreign Relations, submitted the following

REPORT

[To accompany S. J. Res. 174]

The Committee on Foreign Relations, having had under consideration the joint resolution (S. J. Res. 174) providing for a study of the possibility and desirability of establishing a University of the Americas, reports the same to the Senate without amendment and recommends that it do pass.

PURPOSE OF THE RESOLUTION

The purpose of Senate Joint Resolution 174 is to provide for the establishment of a Commission, to be known as the Commission on the University of the Americas, which would explore the possibility and desirability of establishing a great university in the Western Hemisphere as a center of higher education for the people of all the American Republics. The resolution is inspired by the conviction that the increasing degree of cultural and commercial relations between the United States and its neighbors to the south warrants the development of educational facilities which could contribute to a greater appreciation of the mutual problems confronting our peoples. One way to serve this goal would appear to be by the creation of an inter-American university whose facilities would be accessible to students and professors from all parts of the Americas, with a curriculum specially designed to foster a broader understanding of the legal, social, commercial, and political problems common to the Western Hemisphere. However, the resolution goes no further than to provide for an investigation and study to be made to determine whether such a university is a practicable and desirable project. A report

embodying the results of this study will then be transmitted to the President and the Congress for possible future action.

BACKGROUND AND COMMITTEE ACTION

Senate Joint Resolution 174, which was referred to the Committee on Foreign Relations, was introduced on May 16, 1956, and sponsored jointly by Senators Mansfield and Knowland.

In a statement delivered on the Senate floor on May 10, 1956, and again at the time the pending resolution was introduced (Congressional Record, May 16, 1956, p. 7360), Senator Mansfield had voiced deep concern over the dissatisfaction which was increasing among our Latin American neighbors with the policies we have been following toward them, and with the degree of interest which we seemed to be manifesting concerning their pressing problems. To arrest this disturbing drift toward disunity and misunderstanding, Senator Mansfield suggested, among other things, that the idea of establishing a University of the Americas be carefully explored, as a means of encouraging a mutual awareness of the community of interests shared by the 21 American Republics.

The committee considered the resolution in executive session on July 17, 1956, and voted without objection to report it favorably to the Senate.

COMPOSITION AND MANDATE OF THE COMMISSION

The Commission contemplated by the resolution is to consist of 8 members, 2 of whom would be appointed by the President of the Senate from its Members (1 from each political party), and 2 appointed by the Speaker of the House of Representatives from that body (also with not more than 1 from each party). The remaining four members would be appointed by the President of the United States from among the presidents of such universities as will provide representation from the principal geographical areas of the United States.

Section 2 of the resolution directs the Commission to make a "full and complete investigation and study," including consultation with officials of the Organization of American States. It is further provided that consideration must be given by the Commission to all pertinent factors bearing upon the desirability of establishing a university of the kind envisaged in the resolution, together with the prospects for its acceptance and successful operation. The Commission is directed to recommend a possible site for the university, taking into account such matters as geographical accessibility, climate, and the availability of existing facilities.

To accomplish the objectives of the resolution, the Commission is authorized to hold hearings and to conduct meetings at such times as its membership deems advisable (sec. 3), as well as to obtain directly from any executive department or agency of the Federal Government information and suggestions bearing upon its study. Congressional Members of the Commission are to be reimbursed for travel, subsistence and other necessary expenses incident to their duties, but shall receive no compensation in addition to that received for their services as Members of Congress. Members appointed from private life will receive $50 per diem when engaged in duties for the Commission,

together with reimbursement for travel and subsistence expense (sec. 4). Findings and recommendations of the Commission must be reported to the President and the Congress not later than January 31, 1957. To defray anticipated expenses, the resolution (sec. 6) provides that $50,000 shall be paid from funds appropriated under the authorization contained in section 401 of the Mutual Security Act of 1954, as amended.

NEED FOR THE STUDY

The importance of providing adequate institutions of scientific learning in many areas of the world now hungry for knowledge and the ability to make use of modern techniques, was emphasized by President Eisenhower in his Baylor University Commencement Address on May 25, 1956. In that address, the President declared:

> I firmly believe that if some or all of our great universities, strongly supported by private foundations that exist in number thoughout our land, sparked by the zeal and fire of educated Americans, would devote themselves to this task the prospects for a peaceful and prosperous world would be mightily enhanced. * * *
>
> Each school would help each nation develop its human and natural resources and also provide a great two-way avenue of communication. We would gain new knowledge and wisdom out of the priceless values of another people's traditions and proud heritage. They would gain knowledge in the technical and scientific fields where we have had an earlier start. Such a voluntary effort in people-to-people partnership would be a dynamic, fruitful corollary to * * * elements already effectively at work in our governmental foreign policy.

These judicious observations are particularly relevant to our relations with the Latin American Republics, which possess an importance not only to our own security but to the future of world peace far beyond what has been vouchsafed thus far by our policy planning.

Senate Joint Resolution 174 would, in the judgment of the committee, constitute an important first step toward the general objectives indicated by the President. A University of the Americas would provide even greater avenues to mutual understanding and friendship through a multinational association of students, exposed simultaneously to the cultural influences which have fed the stream of civilization on our two continents.

THE PUERTO RICAN EXAMPLE

Evidence as to how such a university could serve the cause of mutual good will is provided by our experience under the point 4 program in Puerto Rico since 1950. The Puerto Rican Government, unwilling to be a mere donee, joined with the United States in cosponsoring training programs for foreign students. Over the past 5 years, the Commonwealth appropriated over $35,000 annually, which, together with the funds contributed by the United States, enabled over 2,000 scholarship grantees, visitors and observers to be received in Puerto Rico in that period, most of whom came from Latin America and the Caribbean. Presumably the study which will be conducted under the

pending resolution will disclose to what extent the nations of this hemisphere might be prepared in their own interest to support a University of the Americas by instituting similar fellowships and grants.

POSITION OF THE EXECUTIVE BRANCH

In response to the committee's request for a statement of its views concerning the study proposed in Senate Joint Resolution 174, the Department of Health, Education, and Welfare expressed opposition to enactment of the measure, principally on the ground that the establishment of a Commission is unnecessary to accomplish the objectives of the resolution. It also expressed its preference that any such study be conducted within the executive branch, with appropriate representation from the departments concerned (letter from Secretary Marion B. Folsom, dated June 12, 1956). Doubts as to the advisability of setting up the Commission contemplated in Senate Joint Resolution 174 were likewise expressed by the Department of State which, however, agreed that means should be studied, including a University of the Americas, whereby the educational ties of the Americas could be strengthened. The Department indicated it is conducting a preliminary study of the problem, and informed the committee of its desire to cooperate should an independent study be made under Senate Joint Resolution 174 (letter from Assistant Secretary of State Robert C. Hill, dated June 18, 1956).

The committee has carefully considered the positions summarized above, and has concluded nevertheless not only that a full and complete study should be made, but that is should be undertaken by an independent Commission which would view the problem with requisite detachment and analyze it from a fresh point of view. This Commission would, of course, seek information and suggestions from the executive branch; but the conclusions which it reaches will be its own, and they can then be evaluated in the light of all available evidence, including the views of other interested Government agencies.

CONCLUSIONS

The committee notes with satisfaction that the Department of State has directed a preliminary study to be made of the problem (letter dated June 18, 1956, from Assistant Secretary of State Robert C. Hill), which will be available at the beginning of the next Congress. Doubtless this study will take into account the advantages which would accrue to the United States from proposing an inter-American university, not only from the standpoint of increased friendly relations, but also from that of the favorable impact which such a proposal necessarily would produce upon public opinion in this hemisphere.

It is hoped that the conclusions of the Department of State will be transmitted in sufficient time so that the Commission established pursuant to this resolution will have the benefit of the Department's views before its investigation is completed. It is, of course, possible that the Commission may find the creation of a University of the Americas to be impracticable at the present time. Should that prove to be the case, we will, in any event, have explored the possibilities of such a project, and alternative courses might then be indicated. It is worth recalling, however, that no project of this character can be

realized without effort, nor will it attain fruition if it is deterred by real or imagined difficulties of organization, geography, financing or public apathy. An inter-American university could be a center of higher learning which will attract to itself the loyalties and interests which ordinarily attach to any great university. It would provide for its alumni a common bond of fellowship and understanding which could be of inestimable worth in later years in the maintenance of harmonious relations between the nations of the Western Hemisphere.

For these reasons, the committee urges the Senate to give its approval to Senate Joint Resolution 174.

APPENDIX

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
Washington, June 12, 1956.

Hon. WALTER F. GEORGE,
Chairman, Committee on Foreign Relations,
United States Senate.

DEAR MR. CHAIRMAN: This is in response to your request of May 25, 1956, for a report on Senate Joint Resolution 174, a joint resolution providing for a study of the possibility and desirability of establishing a University of the Americas.

The joint resolution would establish an eight-member Commission on the University of the Americas for the purpose of making an investigation and study of the possibility and desirability of establishing a University of the Americas as a center of higher education for the people of the nations of the Western Hemisphere. The Commission would be composed of 8 members: 2 appointed by the President of the Senate from the Members of the Senate (not more than 1 from any political party); 2 appointed by the Speaker of the House of Representatives from the Members of the House of Representatives (not more than 1 from any political party); and 4 appointed by the President of the United States from the presidents of such universities as will provide representation from the principal geographical areas of the United States. The Commission would be required to complete its investigation and study and report its findings and recommendations to the President and the Congress not later than January 31, 1957, and would cease to exist 30 days after the submission of such report. Expenses of the Commission of not to exceed $50,000 would be authorized to be paid from funds appropriated under the authorization contained in section 401 of the Mutual Security Act of 1954, as amended.

This Department is in full accord with the objectives and purposes of this joint resolution insofar as the resolution proposes to increase the cultural, economic, and commercial relationships between the United States and its sister Republics in the Western Hemisphere, and expand the interchange of ideas, skills, culture, and understanding among the peoples concerned. However, in light of our present knowledge, we would question whether the establishment of an institution of the sort contemplated by the resolution is necessary in order to accomplish these objectives.

During recent years many higher educational institutions in the United States, both public and private, have greatly improved the scope and extent of their offerings in the areas of interest to students

and faculty from institutions in the other nations of the Americas. Scholarship and fellowship opportunities in higher institutions in the United States are being offered in increasing number to students from the Latin American countries. The Federal Government has itself conducted programs of exchange of faculty and students, has sent educational missions to various countries, and through various other means has greatly accelerated educational interchange between the United States and Latin America. We believe that the purposes and objectives of the instant resolution would be better accomplished through an expansion and extension of the present type of program, which is being conducted under Federal auspices and through existing public and private institutions of higher learning, rather than by the establishment of a new institution in competition with existing higher educational facilities.

If an exploratory study such as that proposed by the instant resolution is deemed necessary, the Department believes that it would be preferable that such study be conducted within the executive branch, with appropriate representation by the departments most directly concerned and with the advice and consultation of experts from non-governmental sources. This Department, as one of the departments most directly concerned with such a study, would, of course, expect to cooperate in the endeavor.

In view of these considerations, we would recommend that Senate Joint Resolution 174 in its present form not be enacted by the Congress.

The Bureau of the Budget advises that it perceives no objection to the submission of this report to your committee.

Sincerely yours,

MARION B. FOLSOM, *Secretary.*

DEPARTMENT OF STATE,
Washington, June 18, 1956.

Hon. WALTER F. GEORGE,
Chairman, Committee on Foreign Relations,
United States Senate.

DEAR SENATOR GEORGE: Your letter of May 17, 1956, requests the views of the Department of State on Senate Joint Resolution 174, introduced May 16, 1956, by Senator Mansfield providing for a study of the possibility and desirability of establishing a University of the Americas.

We are grateful to Senator Mansfield for his appreciation of the importance of expanding United States cultural and economic contacts with Latin America. We agree also with the proposition expressed in the proposed legislation that an expansion of existing inter-American educational facilities would be an important contribution to this end.

However, the Department doubts the advisability of setting up such a Commission at this time. It is clear, of course, that Senate Joint Resolution 174 does not, in fact, provide for the actual establishment of a University of the Americas, but only for the appointment of a commission to study "the possibility and desirability" of such a facility. At the same time, it is true that many people in this

country and Latin America would construe the appointment of such a commission as a commitment to do something along these lines. There might be considerable disappointment if such a commission should decide after study that the project was impractical.

The Department agrees that a study of ways and means of strengthening the educational ties of the Americas should be made, including the possibility of a University of the Americas. The various areas of the Department concerned with this problem are being directed to make a preliminary study, the results of which would be transmitted to your committee at the beginning of the next Congress.

If the committee should decide to have a similar exploratory study made, the Department would of course cooperate in any manner the committee desires.

Sincerely yours,

ROBERT C. HILL,
Assistant Secretary
(For the Secretary of State).

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Calendar No. 2718

84TH CONGRESS, 2d Session } SENATE { REPORT No. 2672

FISH HATCHERY AT CEDAR BLUFF RESERVOIR, KANS.

JULY 20 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. SCHOEPPEL, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany S. 3809]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (S. 3809) to provide for the establishment of a new fish hatchery at Cedar Bluff Reservoir, Kans., having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The bill authorizes the Secretary of the Interior to construct, equip, maintain, and operate a new warm-water fish hatchery at Cedar Bluff Reservoir in Kansas. The reservoir, with a storage capacity of 377,000 acre-feet, is formed by a dam completed in 1951 near the Trego-Ellis County line.

It is contemplated that the hatchery would serve a large area and supply annually about 6 million fish for the lakes and streams of several States, and it is estimated that the original construction cost will be $450,000, with an annual expenditure for operation and maintenance of $40,000.

An amendment has been included apportioning not to exceed 4,000 acre-feet annually of the water supply of the reservoir for the fish hatchery and related purposes.

An authorization for the necessary funds is also included in the bill.

The favorable report of the Department of the Interior, which is set out below, gives compelling reasons for the enactment of the legislation.

There are no changes in existing law.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D. C., July 16, 1956.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Interstate and Foreign Commerce,
United States Senate, Washington, D. C.

MY DEAR SENATOR MAGNUSON: Your committee has requested a report on S. 3809, a bill to provide for the establishment of a new fish hatchery at Cedar Bluff Reservoir, Trego County, Kans.

We recommend that S. 3809 be enacted.

There is need for a warm-water fish hatchery to serve eastern Colorado, western Kansas, and portions of the Texas and Oklahoma Panhandles. Fish stocking requirements in the area are great and the long distance from existing Federal hatcheries does not permit the servicing of the area on an adequate or economical basis. The demand for warm-water fish for stocking purposes far exceeds the production available from State hatcheries in the area and this demand is increasing each year.

During the past 3 years, extensive studies have been made of possible warm-water fish hatchery sites in western Oklahoma, western Kansas, and eastern Colorado. As a result, a site below the Cedar Bluff Dam and Reservoir, constructed as a part of the Missouri River Basin project, near Hays, Kans., was determined to be the most suitable for the establishment of a warm-water fish hatchery. An adequate water supply could be made available from the Cedar Bluff Reservoir and suitable Federal land is available below the dam for constructing the hatchery.

Because of the fact that the Cedar Bluff project was built to serve the primary purposes of irrigation and flood control, it would be appropriate, we believe, for the proposed legislation to include language to allocate a part of the water supply and part of the cost of the primary feature to fish and wildlife values. The original plans for the Cedar Bluff project contemplated irrigation of 11,300 acres and on March 23, 1949, the Cedar Bluff Irrigation District No. 3 filed an application for a permit to use the water of the Cedar Bluff Reservoir for this area. There would have been sufficient water to carry out that proposal for irrigation of the area with occasional shortages, but there would not have been enough water to satisfy any additional demands such as the current proposal for establishment of a fish hatchery in the area. The irrigation district was dissolved on December 27, 1955; however, we are informed that local interests are now attempting to organize a smaller district and that efforts will be made to obtain a vote on the proposed new district during the current calendar year. In view of the fact that the proposed fish hatchery would limit the irrigation development to a maximum of some 9,000 acres, we believe the possible irrigation development warrants consideration. We estimate the proposed fish hatchery would use approximately 4,000 acre-feet of water annually for fish purposes.

In the foregoing circumstances, in recognition of the primary use of the Cedar Bluff Dam and Reservoir for irrigation and flood control purposes, we offer the following amendment to the bill for your consideration:

Add the following at the end of section 1 of the bill:

"The Secretary is authorized to make appropriate arrangements or agreements to use for fish hatchery and related purposes not to exceed 4,000 acre-feet annually of the water supply of the Cedar Bluff Reservoir: *Provided*, That any shortages in the water supply from such reservoir shall be shared proportionately to the requirements of the several purposes served: *Provided further*, That an appropriate part of the cost of the Cedar Bluff Dam and Reservoir shall be allocated to fish and wildlife purposes and such part of the cost shall be nonreimbursable and nonreturnable."

We estimate that the cost of constructing this proposed warm-water fish hatchery on a suitable basis to provide the fish needed for stocking purposes in the 4-State area, is $450,000. This sum would be used for the construction of rearing ponds (40 acres), including water supply and drainage facilities, fish-holding house, service buildings, quarters for permanent employees, service roads, fences, initial equipment, and other necessary items. The estimated production of the proposed hatchery is 6 million fish annually. The annual cost of operating the proposed hatchery is estimated at $40,000.

The Bureau of the Budget has advised that there is no objection to the submission of this report to your committee.

Sincerely yours,

WESLEY A. D'EWART,
Assistant Secretary of the Interior.

UNIVERSITY OF MICHIGAN LIBRARIES

Calendar No. 2724

84TH CONGRESS, 2d Session } SENATE { REPORT No. 2678

INCORPORATING THE BOYS' CLUBS OF AMERICA

JULY 20 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. DIRKSEN, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany S. 4184]

The Committee on the Judiciary, to which was referred the bill (S. 4184) to incorporate the Boys' Clubs of America, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

AMENDMENT

On page 5, line 4, after the period, add the following:

> Each member of the corporation shall have the right to one vote on each matter submitted to a vote at all meetings of the members of the corporation.

PURPOSE

The purpose of the proposed legislation, as amended, is to confer a Federal charter upon the Boys' Clubs of America.

STATEMENT

Boys' Clubs of America is a national organization whose member clubs serve boys from 7 to 18 years of age in towns and cities throughout the United States.

This year Boys' Clubs of America celebrates its 50th year as a national organization. When it was formed in 1906 there were some 50 boys clubs in operation. These clubs banded together to establish a national organization. A number of these clubs had been started in the 1860's when organizations and groups of people in various New England communities opened rooms to give boys a place for safe recreation during afternoon and evening hours.

Today there are 435 boys clubs, with a membership of more than 400,000. These clubs have buildings and other assets valued at over $100 million. A new boys' club is being added every 10 days.

Boys' Clubs of America, composed of member clubs banded together in a national organization, establishes standards and methods; develops programs and program materials; plans buildings and equipment; recruits, trains, and places club workers; publishes periodicals, booklets, and bulletins; carries on a national interpretation and publicity program, and furnishes guidance, plans, and materials for the use of the boys' clubs themselves and, in general, promotes the development of the whole movement throughout the country.

The committee is of the opinion that this legislation has a meritorious purpose. The boys' clubs are not only training young boys to be good citizens through combating juvenile delinquency by developing character and moral values in youngsters joining these clubs, but are also contributing to a more active participation by these youngsters in the affairs of their communities. Accordingly, the committee recommends that S. 4184, as amended, be favorably considered.

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Calendar No. 2725

84TH CONGRESS, 2d Session } SENATE { REPORT No. 2679

INCORPORATING THE BOYS' CLUBS OF AMERICA

JULY 20 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. EASTLAND, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany S. 4200]

The Committee on the Judiciary, to which was referred the bill (S. 4200) to incorporate the Boys' Clubs of America, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

AMENDMENT

On page 5, line 6, after the period, add the following:

> Each member of the corporation shall have the right to one vote on each matter submitted to a vote at all meetings of the members of the corporation.

PURPOSE

The purpose of the proposed legislation, as amended, is to confer a Federal charter upon the Boys' Clubs of America.

STATEMENT

Boys' Clubs of America is a national organization whose member clubs serve boys from 7 to 18 years of age in towns and cities throughout the United States.

This year Boys' Clubs of America celebrates its 50th year as a national organization. When it was formed in 1906 there were some 50 boys' clubs in operation. These clubs banded together to establish a national organization. A number of these clubs had been started in the 1860's when organizations and groups of people in various New England communities opened rooms to give boys a place for safe recreation during afternoon and evening hours.

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Boys' Clubs of America, composed of member clubs banded together in a national organization, establishes standards and methods; develops programs and program materials; plans buildings and equipment, recruits, trains and places club workers; publishes periodicals, booklets and bulletins; carries on a national interpretation and publicity program, and furnishes guidance, plans and materials for the use of the boys' clubs themselves and, in general, promotes the development of the whole movement throughout the country.

The committee is of the opinion that this legislation has a meritorious purpose. The boys' clubs are not only training young boys to be good citizens through combating juvenile delinquency by developing character and moral values in youngsters joining these clubs, but are also contributing to a more active participation by these youngsters in the affairs of their communities. Accordingly, the committee recommends that S. 4200, as amended, be favorably considered.

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Calendar No. 2727

84TH CONGRESS, 2d Session } SENATE { REPORT No. 2681

AUTHORIZING OCCUPANCY OF INADEQUATE QUARTERS ON A RENTAL BASIS WITHOUT LOSS OF BASIC ALLOWANCE FOR QUARTERS

JULY 20 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. CASE of South Dakota, from the Committee on Armed Services, submitted the following

REPORT

[To accompany H. R. 5731]

The Committee on Armed Services, to whom was referred the bill (H. R. 5731), to permit members of the Army, Navy, Air Force, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service, with dependents, to occupy inadequate quarters on a rental basis without loss of basic allowance for quarters, having considered the same, report favorably thereon with an amendment and recommend that the bill, as amended, do pass.

EXPLANATION OF THE AMENDMENT

The substitute language adopted by the committee has the effect of (1) limiting the provisions of the act to apply to public quarters only, (2) extending the period of time from 2 to 3 years in which the respective Secretaries must alter or improve inadequate quarters so as to qualify as public quarters, or otherwise demolish or dispose of them, and (3) excepting from the requirement of improvement or disposal of quarters those which are inadequate by reason of size alone, and (4) requiring the respective Secretaries to report to the Committees on Armed Services of the Congress not later than March 1, 1957, and annually thereafter, the number of inadequate public quarters exempted under the provisions of the act, the criteria utilized, and the progress being made to eliminate inadequate housing.

PURPOSE OF THE BILL

The purpose of the proposed legislation is to permit members of the Army, Navy, Air Force, Marine Corps, Coast Guard, Coast and Geodetic Survey, and the Public Health Service with their dependents

to occupy inadequate quarters on a rental basis and without loss of basic allowance for quarters.

BACKGROUND OF THE BILL

Under existing laws and related rulings of the Comptroller General, members occupying any public quarters, be they adequate or inadequate, are not entitled to receive their basic allowance for quarters. The purpose of this bill is to authorize members with dependents to occupy inadequate quarters on a rental basis without forfeiture of their quarters allowance.

Section 302 (b) of the Career Compensation Act of 1949 provides that—

> Except as otherwise provided by law, no basic allowance for quarters shall accrue to members of the uniformed services assigned to Government quarters or housing facilities under the jurisdiction of the uniformed services, appropriate to their rank, grade, or rating and adequate for themselves and dependents, if any.

Related to the problem is a ruling of the Comptroller General which holds that occupancy of public quarters, no matter how inadequate, requires a forfeiture of the quarters allowance. On the other hand, the act of July 2, 1945, authorizes members and dependents to occupy any Government housing facility, other than public quarters, on a rental basis without loss of their quarters allowance.

Under this bill, the services would be authorized to declare certain unsuitable housing facilities inadequate quarters and to use them, on an interim basis, in the same manner as if they had been constructed as rental housing. The member could then occupy such inadequate quarters on an appropriate rental basis and receive his quarters allowance.

With respect to the act of July 2, 1945, which is the basic authority for service personnel to occupy Government quarters, other than public quarters, on a rental basis, the Comptroller General has ruled, in effect, that to be used as rental housing, such housing must have been constructed with funds appropriated for rental housing, or that the housing was acquired under circumstances which take it out of a public quarters category. Thus, if barracks are converted to quarters, they become public quarters because barracks were constructed from funds contemplating public housing facilities. Also, if rental housing is remodeled or renovated and such requires the expenditure of substantial funds other than those specifically appropriated for rental renovation, the quarters must be redesignated as public quarters.

This bill would grant authority to determine, on the basis of a reasonable and realistic standard of adequacy, whether certain housing facilities should continue to be classified as public quarters.

Each service has innumerable examples of inequities as to occupancy of the various types of public quarters, many of which arise in the same area. Of course, the ultimate solution is to provide adequate and sufficient public quarters. Until such can be achieved, the services should, in the opinion of the committee, be permitted to utilize inadequate quarters on a rental basis where—

(1) There is a lack of suitable community support or other housing, or,

(2) There is a requirement that certain key personnel live on the station, regardless of the adequacy of the housing.

The committee is of the firm view, and so advised the departmental representatives, that no recently constructed permanent housing assets should be declared inadequate under the authority of this bill.

In many areas surrounding military installations, availability of private housing has improved to the point where service personnel are able to obtain reasonable rentals or purchase their own homes. There are, however, numerous areas both within the continental limits of the United States and overseas where this is not the case. At some installations there is no private housing. At others, service personnel are not able to afford the high rentals. In recent years, Government rental housing and adequate public quarters have been constructed to alleviate the situation, yet, under existing conditions at many bases, the precipitate elimination of all substandard public quarters would only aggravate the morale problem stemming from the need to house members and their dependents. At a time when all services are making every effort to retain career personnel, this would create a most undesirable situation.

NEED FOR KEY PERSONNEL ON STATION

There are instances where, because of the nature of their assigned duties key personnel are required to occupy public quarters at or near their place of duty. In this situation, military requirements give the commanding officer no alternative but to assign members to on-station public quarters without regard to their adequacy. To eliminate all substandard quarters under such circumstances would reduce the military capabilities of the station. It should be noted here that in the case of many overseas installations, no housing is available other than that which exists on the base. Under such circumstances, the services, from a morale standpoint, consider it essential that as many members as practicable have their families with them, in spite of the inadequacy of the quarters.

STATISTICAL DATA

Below is set out a chart which shows all of the housing under the jurisdiction of the affected services from which it will be noted that the worldwide total of public quarters is 149,208. Of these, 112,691 are adequate and 36,517 are substandard. The chart, in the last column, shows the number of housing units now rented under the authority of the act of July 2, 1945 (59 Stat. 316).

Housing under the jurisdiction of the services

	Public quarters			Rental housing, total
	Total	Adequate	Substandard	
Army	92,434	71,134	21,300	1,827
Navy and Marine Corps	20,128	13,766	6,362	31,941
Air Force	35,625	27,000	8,625	9,300
Coast Guard	686	556	130	50
Coast and Geodetic Survey	None			None
Public Health Service	335	235	100	None
Total	149,208	112,691	36,517	43,118

COST DATA

The chart set out below gives, by service, the number of substandard units, the gross appropriations now made in housing allowances against the occupancy of these units, and the rent receipts which it is estimated will accrue to the Government by reason of the rental of these units under the provision of H. R. 5731.

	Department of Defense			Total
	Army	Navy and Marine Corps	Air Force	
Number substandard units	21,300	6,362	8,625	36,287
Gross appropriations	$24,151,200	$7,030,010	$8,480,313	$39,661,523
Rent receipts	15,383,286	3,443,114	5,708,160	24,534,560
Cost to Government	8,767,914	3,586,896	2,772,153	15,126,963

With regard to the cost data shown on the chart, it is important to recognize that the total cost to the Government represents the best estimate of the maximum annual cost. As the various housing programs presently underway begin to make available adequate public quarters, the total number of substandard quarters in use will be reduced, and the annual cost to the Government will be reduced proportionately. Likewise, as personnel requirements in a particular area are reduced, the housing requirements will also be reduced.

COMMITTEE VIEWS

After reviewing the problem, the committee concluded that the principle involved in this legislation is sound and that it is desirable for morale purposes to provide legislation which will not require full payment of quarters allowances for inadequate or substandard housing. Defense officials testified that 70 to 75 percent of the type housing involved would be utilized by enlisted personnel and officers in the lower ranks. The committee is of the opinion that this legislation should be limited to public quarters only because it is in this area that the major inequities exist.

The bill as originally introduced provided that housing units determined to be inadequate should be altered or improved so as to qualify as public quarters, or be demolished or otherwise disposed of within a 4-year period of the determination that they were inadequate. The bill as passed by the House provided a 2-year period. The committee felt that a 4-year period was perhaps too long and that the 3-year period, provided by amending the bill, will allow sufficient time for the services to take the appropriate action necessary to alter or improve quarters now considered to be substandard.

Of main concern is the criteria to be utilized in determining whether a housing unit is substandard. Defense witnesses indicated the Department's intent to establish rigid and uniform regulations and to establish rental rates comparable to those existing in each local community for similar type quarters. The committee believes that rentals should in every respect be competitive and that privately owned housing in a given area not be made to suffer as a result of the establishment of rentals lower than those found on the open market.

The committee believes that no unit should be declared substandard unless:

(*a*) It has substantial structural or design defects.
(*b*) It lacks essential utilities or facilities.
(*c*) It is in a deteriorated condition.
(*d*) It constitutes a potential hazard to health and safety.

It was felt that this particular aspect of the bill, if not given adequate supervision, could lend itself to abuse and, therefore, the committee amended the bill to provide that the respective Secretaries report to the Committees on Armed Services of the Congress not later than March 1, 1957, and annually thereafter, the number of inadequate public quarters exempted under the provisions of the bill, the criteria utilized, and the progress being made to eliminate inadequate housing.

Section 4 of the bill as originally introduced contained a provision whereby the Secretary concerned could except from the requirement of improvement or disposal of quarters those which are inadequate by reason of size alone. The bill as passed by the House did not include this provision. The Senate committee reinstated the provision because it felt that in many instances the services have certain family housing units built as public quarters which, because of the passage of time or other reasons, are no longer considered proper for the rank of the individual concerned. In many instances, these units are of sound and adequate construction but are cramped and do not favorably compare with the standards for public quarters laid down by Congress.

INADEQUATE UNITS BY STATION

There are set out in the hearing lists of the inadequate quarters under the jurisdiction of each of the military departments. It is the understanding of the committee that some of these inadequate quarters have already been deactivated, that others are in the process of deactivation, and that still others are planned for deactivation. This bill should not constitute a basis for (1) reactivating any quarters now deactivated by reason of inadequacy, (2) modification of deactivations now underway, and (3) alteration of plans for future deactivations.

AVAILABILITY OF OTHER HOUSING

In connection with the immediate foregoing, it is the committee's view that inadequate housing should not be occupied in any instance where there is any other adequate housing available. That is to say, where there are existing adequate Government quarters, Wherry housing, Capehart housing, or appropriate community support, these should be utilized before any inadequate unit is used. The position of the committee in this respect is subject only to the exception of a requirement that the particular personnel must reside on station.

FISCAL DATA

A detailed description of the fiscal effect of this measure with respect to the Department of Defense is set out previously in this report under the heading "Cost data." With respect to the Coast Guard, the Coast and Geodetic Survey, and the Public Health Service, the gross appropriation required will be $222,702. The rent receipts will aggregate $132,000, representing a difference of $90,702.

DEPARTMENTAL DATA

The Department of the Navy is the executive agent for all agencies concerned for the presentation and support of this legislation. Below is set out a letter, dated April 16, 1955, from the Secretary of the Navy which, while relating to a bill of somewhat different form, indicates that legislation of this type is a part of the Department of Defense legislative program and has been accepted by the Bureau of the Budget. The current approval of the Bureau of the Budget in this respect is indicated in the letter dated March 22, 1956, from the Acting Secretary of the Treasury which is set out below. Both of these letters constitute part of this report. In this connection, it is pertinent to note the position of the President in this respect as such is set out in his message dated January 13, 1955 (H. Doc. 69, 84th Cong., 1st sess.) in which the President stated in part that he recommended "authority for reduced rentals where men and their families must live temporarily in substandard housing."

DEPARTMENT OF THE NAVY,
Washington, D. C., April 16, 1955.

Hon. SAM RAYBURN,
Speaker of the House of Representatives,
Washington, D. C.

MY DEAR MR. SPEAKER: There is enclosed herewith a draft of legislation to permit members of the Army, Navy, Air Force, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service, and their dependents to occupy inadequate quarters on a rental basis without loss of basic allowance for quarters.

This proposal is a part of the Department of Defense legislative program for 1955 and the Bureau of the Budget has advised that it is in accord with the program of the President. The Department of the Navy has been designated as the representative of the Department of Defense for this legislation. It is recommended that this proposal be enacted by the Congress.

PURPOSE OF THE LEGISLATION

The purpose of the proposed legislation is to permit members of the Army, Navy, Air Force, Marine Corps, Coast Guard, Coast and Geodetic Survey, and the Public Health Service, and their dependents, to occupy inadequate quarters on a rental basis and without loss of basic allowance for quarters. It should be noted that the President in a special message to the Congress relating to personnel turnover in the military services (H. Doc. 69, 84th Cong.) urged the enactment of legislation of this type.

The head of the department concerned would be given the authority under regulations to determine whether particular units of family housing are inadequate as public quarters. It is contemplated that in making the determination that housing facilities are inadequate he would use as a criterion the minimum standards established for permanent family quarters construction programs. The housing facilities would be designated inadequate due to inadequacy of acceptable livability, size, construction, utilities, or necessary facilities for family housing. A determination by the head of the department concerned that housing facilities under his jurisdiction are inadequate would be final and conclusive.

The head of the department concerned would be authorized to lease inadequate housing to personnel of his department upon such terms and conditions as in his judgment will be in the best interest of the United States. The facilities leased, however, would not be required to have been constructed with funds appropriated specifically for rental housing.

The act of July 2, 1945 (59 Stat. 316; 37 U. S. C. 111a), would be repealed by this proposal. That act authorizes members of the Army, Navy, Air Force, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service and their dependents to occupy, on a rental basis, housing facilities other than those designated as public quarters. Members occupying rental housing do not lose their basic allowance for quarters. On the other hand, members do lose their basic allowance for quarters when occupying housing designated as public quarters. In addition, the Comptroller General has ruled (25 Comp. Gen. 798) that housing constructed with appropriated funds directly or indirectly made available for quarters or housing for members of the services concerned, however inadequate, must be considered as public quarters.

Under this ruling of the Comptroller General, there are, in many localities, both inadequate housing which must be treated as public quarters, and comparable housing facilities under the jurisdiction of the services concerned which were constructed with funds specifically appropriated for low-cost defense housing units. Service personnel who occupy these latter units do so on a rental basis without loss of basic allowance for quarters. The result in these cases, therefore, is that comparable housing facilities cost one member a greater amount than that paid by another member of the same rank or rating. Inequitable situations such as these create very undesirable morale problems. This proposal is designed to alleviate these conditions by authorizing the rental of inadequate housing constructed or converted with funds appropriated for public quarters on much the same basis as housing constructed with funds specifically appropriated for rental housing.

In order to prevent the indefinite use of inadequate housing, a specific provision is contained in section 4 of this proposal requiring the demolition, within 4 years, of all housing found inadequate under section 2 unless (1) it is altered or improved so as to qualify as public quarters, (2) it is urgently needed because of a shortage of housing located within a reasonable proximity and available at suitable rentals, or (3) is inadequate by reason of size alone.

COST AND BUDGET DATA

It is estimated that enactment of this proposal would result in an increase in cost to the Department of Defense of $40,251,000. However, it is estimated that receipts from rentals will amount to approximately $25 million resulting in a net cost to the Government of approximately $15 million. While such $40,251,000 was not included within the proposed operating budget for fiscal year 1956, funds for this and certain other items are included in the budget for later transmission, contingent upon authorizing legislation.

Sincerely yours,

C. S. THOMAS, *Secretary.*

TREASURY DEPARTMENT,
Washington, May 22, 1956.

Hon. CARL VINSON,
Chairman, Committee on Armed Services,
House of Representatives, Washington, D. C.

MY DEAR MR. CHAIRMAN: Reference is made to H. R. 5731, to permit members of the Army, Navy, Air Force, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service, and their dependents, to occupy inadequate quarters on a rental basis without loss of basic allowance for quarters.

The purpose of the bill is to authorize members of the uniformed services and their dependents to occupy inadequate public quarters on a rental basis without loss of their rental allowance. Enactment of the bill would mean that unless public quarters are adequate they will be classified as rental housing; occupancy of that housing would not amount to the furnishing of Government quarters to members and their dependents. Hence the members would be entitled to receive their basic allowance for quarters as provided in the Career Compensation Act of 1949. The bill would authorize the Secretaries concerned to designate as rental housing such housing as they may determine to be inadequate as public quarters, and to lease rental housing to personnel of the uniformed services. There is also a provision that housing determined to be inadequate shall, within 4 years of such determination, either be improved so as to qualify as public quarters or be demolished; however, there is an exception to this provision in the case of urgently needed housing.

The Coast Guard has some housing which is below any reasonable standard of adequacy. Yet, this housing, because of existing laws and decisions must be classified as public quarters. Today, if public quarters are occupied, they are presumed to be adequate. Requiring personnel to occupy inadequate public quarters results in inequities which impair morale. For example, at certain units members and their dependents are required to occupy public quarters that are, in fact, inadequate, while other members of like status occupy comparable rental housing at a rental less than the quarters allowance received. Or the latter members may be able to rent, at a rental equal to the applicable quarters allowance, housing which is better than the public quarters furnished to others. The enactment of H. R. 5731 would in large part remove these inequities in the Coast Guard as in the other uniformed services.

Therefore, the Treasury Department favors the enactment of H. R. 5731.

The Department has been advised by the Bureau of the Budget that there is no objection to the submission of this report to your committee.

Very truly yours,

DAVID W. KENDALL,
Acting Secretary of the Treasury.

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Calendar No. 2728

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2682

AUTHORIZING FLIGHT TRAINING IN THE ROTC PROGRAMS OF THE MILITARY DEPARTMENTS

JULY 20 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. JACKSON, from the Committee on Armed Services, submitted the following

REPORT

[To accompany H. R. 5738]

The Committee on Armed Services, to whom was referred the bill (H. R. 5738) to authorize flight instruction during Reserve Officers' Training Corps programs, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill, as amended, do pass.

AMENDMENTS TO THE BILL

On page 2, line 1, after "The Secretary of the" insert the following: "Army and the Secretary of the".

On page 2, line 7, strike out "units" and insert in lieu thereof the following: "units, respectively".

On page 2, strike out all of lines 12, 13, 14, and 15, and insert in lieu thereof the following:

SEC. 3. Section 22 of the Act of March 4, 1925 (ch. 536, 43 Stat. 1276), as amended (34 U. S. C. 821), is further amended by—

(1) deleting in subsection (b) the words "who suffer disability, including members"; and

(2) adding at the end thereof the following new subsections:

"(c) The courses of theoretical and practical naval training prescribed for members of the Naval Reserve Officers' Training Corps may include flight instruction.

"(d) The Secretary of the Navy may, for a period of four years after the effective date of this amendatory Act,

provide, or contract with civilian flying or aviation schools or educational institutions to provide, such personnel, aircraft, supplies, facilities, and instruction as are necessary for flight instruction of members of the Naval Reserve Officers' Training Corps."

On page 2, strike out all of lines 21, 22, and 23, and insert in lieu thereof the following:

(1) Any member who suffers disability or death from an injury incurred in line of duty while engaged in flight instruction, under—

On page 3, strike out lines 9 and 10.

On page 3, strike all of lines 11, 12, and 13, and insert in lieu thereof the following:

(2) Any member who suffers disability or death from an injury incurred in line of duty while performing authorized travel to or from, or while attending—;.

On page 3, strike out line 24.

On page 4, strike out all of lines 1 and 2.

On page 4, lines 8 and 10, strike out "(1) or".

On page 4, strike all of lines 20, 21, 22, 23, and 24, and on page 5, strike all of lines 1 and 2, and insert in lieu thereof the following:

(c) Subject to review by the Secretary of Labor, the Secretary of the military department concerned, under regulations to be prescribed by him, shall determine whether an injury, disease, or illness was sustained, or contracted, in line of duty and was the proximate result of the performance of military training by the member concerned, or of his travel to or from that military training

On page 5, lines 12, 13, and 14, strike out "who is injured, or who contracts a disease or illness, while traveling to or from, or".

On page 6, beginning with line 14, strike all down through line 23.

On page 7, lines 6 and 7, strike out "the Air Force and the Secretary of the Army" and insert in lieu thereof the following: "each military department".

EXPLANATION OF THE AMENDMENTS

The several amendments adopted by the committee have the effects of (1) extending the authority to provide or to contract for flight instruction to the Secretary of the Army, instead of having the Secretary of the Air Force act as the contracting agent for both parties; (2) extending the authority to provide or to contract for flight instruction of ROTC students to the Secretary of the Navy; and (3) to make perfecting and clarifying amendments including certain amendments suggested by the Department of Labor in connection with administration of the provisions relating to the Federal Employees' Compensation Act.

PURPOSE OF THE BILL

The principal purpose of the bill is to authorize flight training in the ROTC programs of the Army, the Navy, and the Air Force. A secondary purpose is to provide death and disability benefits for the

ROTC students who may be killed or injured while participating in flight instruction or in summer camps and cruises.

DESIRABILITY OF AUTHORIZING FLIGHT TRAINING

The existing ROTC programs operate within a legislative framework dating back to the National Defense Act of 1916. The laws governing the ROTC programs do not authorize the military departments to incur expenses by providing flight instruction to ROTC cadets. Since the ROTC program was instituted, the airplane has become a primary instrument of modern warfare. Hence, it is desirable that authorization for flight training be provided in order that prospective flying officers may secure a practical knowledge of, and experience with, airplanes while undergoing ROTC training at a college or university.

Introduction of a flying training program at ROTC units is intended to achieve three objectives: (1) To attract more qualified young men to apply for flying spaces in the advanced ROTC course; (2) to detect, at the least expensive time, those who would later fail to complete pilot training after being commissioned for that purpose; and (3) to motivate more young Americans to become career flying officers. The Department of the Air Force is the primary sponsor of this legisation, since in view of its missions this Department obviously is more directly concerned with the production of career pilots.

The Department of the Army has a lesser, yet substantial, requirement for flying officers and the authority contained in the bill would be available for utilization by the Department of the Navy, although the Navy has no immediate plans for providing flight instruction in Naval ROTC units. Since the Air Force has primary interest, the justification for the bill rests largely in its application to this Department, although the arguments in support of this authority should apply with varying force to the other departments.

While the current Air Force ROTC program is meeting Air Force objectives as to the number of applicants and graduates, the opportunity to fly in college should attract many more cadets. More applicants mean better selection opportunities which, in turn, permit the selection of better qualified young men.

Several screening devices are now utilized in the selection for the advanced ROTC program of those cadets who are best qualified for subsequent flying training. Pilot and observer aptitudes are measured to the extent possible and physical qualifications are determined. These screening devices are effective to some degree but despite previous tests and evaluations, the attrition in primary flying schools of ROTC graduates is high. Some of the graduates lack the basic aptitudes; others succumb to airsickness, a fear of flying, or pressures from home; and others, although originally enthusiastic, find that they simply do not like flying. Flight training in the ROTC program should more effectively screen those students who will not complete flying training later and, thus, avoid the expenses involved in later determining that they are unsuited to flying.

There is also hope that an early interest in aircraft will stimulate more ROTC students to elect a career in flying. The airplane is considered to be the most persuasive sales instrument to influence a flying career and it is desirable to the Air Force that young men be influenced in this direction during the most impressionable years of their lives.

TYPE AND EXTENT OF TRAINING TO BE PROVIDED

The Department's plan to contract with the institutions at which ROTC units are located to provide, or to subcontract for, flight instruction up to 35 hours per cadet. Successful completion of this course will make the cadet eligible for a CAA private pilot certificate.

The Civil Aeronautics Administration will be responsible for administering and supervising the flying, including the safety of facilities and equipment and the final check ride of each cadet. Representatives of the Civil Aeronautics Administration have indicated their ability to supervise this training without increasing the budgetary requirements of this agency.

Beginning next year, the Air Force ROTC program will graduate a total of 6,660 young men. 5,500 of these will be flight-qualified and potential pilots or observers 1,160 of them will be nonrated. The Air Force has approximately 180 ROTC detachments in approximately 200 colleges. It is planned to initiate flying training in less than 50 of these units. It will require approximately 4 years to expand the program to all the institutions capable of providing flying training. Ultimately, the Army would provide flying training to 800 ROTC students a year.

The committee was informed that the 35 hours of flight instruction would be provided over the period of the junior and senior years. While the necessity of phasing flight instruction with the academic responsibilities of the students is recognized, the committee nonetheless is of the opinion that the flight instruction should be compressed into the shortest period of time within which it can reasonably be scheduled. Spreading out 35 hours of flight instruction over a period of 2 years is hardly conducive to the concentration of interest and development of efficiency that are desirable, particularly in certain stages of the training. Consequently, it is the committee's view that the entire course of flight training should be provided within a relatively short period of time.

DEATH AND DISABILITY BENEFITS

While undergoing training in what is known as the institutional phase of ROTC training, cadets now have no coverage for injury incurred or for disease contracted. During a 6-week summer camp or cruise that is required by the third and fourth years of ROTC training, cadets who incur injury or disease are entitled to hospitalization if they are injured or incur disease, and to burial benefits if they are killed, but not to any disability benefits if they are permanently injured or to any survivor benefits if they die.

Under the ROTC programs as they have been conducted in the past, the absence of any death or disability benefits in the institutional phase of the program has not been of great importance, since these programs are not hazardous in nature and it is rare for a disability or a death to result. However, if flight training is to be authorized, the hazards are obviously increased and a corollary of the authorization for flight training is some coverage for disability or death incurred while undergoing flight instruction. This bill proposes to provide that disability and death coverage by applying the provisions of the Federal Employees' Compensation Act to ROTC cadets who suffer disability or death from an injury in line of duty while engaged in flight instruction.

Since ROTC students do not receive basic pay, for the purpose of computing benefits under the Federal Employees' Compensation Act they would be deemed to have a wage of $150 per month.

After this bill had passed the other body, the Department of the Air Force requested consideration of substitute provisions that would have changed the type of death and disability benefits available to ROTC cadets. Under the proposed substitute, coverage under the Federal Employees' Compensation Act would have been eliminated, survivor benefits were proposed to be provided during the institutional phase of the program by an amendment to H. R. 7089 that was proposed to the Finance Committee, and ROTC cadets who were permanently disabled would have been entitled to disability compensation and other benefits under laws administered by the Veterans' Administration.

The amendment to H. R. 7089 which would have provided survivor benefits if ROTC cadets were killed in the institutional phase of the program was not adopted. Consequently, approval by this committee of the part of the substitute proposal involving eligibility for disability compensation and other benefits under laws administered by the Veterans' Administration and the elimination of entitlement to benefits under the Federal Employees' Compensation Act would have left ROTC cadets without any benefits to their survivors if they were killed while undergoing flight instruction. An additional consideration was that ROTC members are civilians and have no military status. Hence, covering them under laws administered by the Veterans' Administration presented the question whether it was justifiable to confer veterans' benefits upon persons who had no military status, in addition to the problem of committee jurisdiction. After consideration of these factors, the committee decided to continue substantially the same death and disability provisions included in the bill as it passed the other body but with perfecting amendments suggested by the Department of Labor, which is responsible for administering the Federal Employees' Compensation Act.

The coverage for death and disability during what is known as the institutional phase of the ROTC program that has been approved by the committee is somewhat more restrictive than that contained in the bill as it was referred to the committee. Death and disability coverage is limited to the disabilities or deaths that may be incurred in line of duty while engaged in flight instruction only. This coverage does not extend to periods involving drill, ground instruction, rifle practices, and similar activities, nor does it extend to travel to or from the place at which the flight instruction is to be given. It is intended that this coverage be limited to disabilities and deaths directly related to the operation of aircraft.

There follows a summary of the entitlement that could be established under the Federal Employees' Compensation Act:

Disability benefits

Sixty-six and two-thirds percent of the difference between the monthly wage earning capacity and $150, up to a maximum of 66⅔ percent of $150, or $100 monthly, for total disability.

Medical, surgical, and hospital benefits

The United States would furnish all services, appliances, and supplies prescribed by qualified physicians which, in the opinion of the Secretary of Labor, are likely to cure or give relief or to reduce the

degree or period of disability or to aid in lessening the amount of the monthly compensation. Such medical services may be furnished in Government hospitals, but where this is impracticable they may be furnished by private physicians and hospitals designated by the Secretary of Labor.

Benefits in the event of death

	FECA [1]
Widow, no child (45 percent)	$67.50
Widow, 1 child (55 percent)	82.50
Each additional child (15 percent up to 75 percent)	22.50
No widow, 1 child (35 percent)	52.50
No widow, 2 children (50 percent)	75.00
No widow, 3 children (65 percent)	97.50
Each additional child (75 percent maximum)	15.00
1 parent (25 percent)	37.50
2 parents (20 percent each)	60.00

[1] Based on assumed $150 monthly pay.

Burial benefits

Four hundred dollars maximum plus embalming and transportation if death occurs away from home.

TABULAR COMPARISON OF BENEFITS

The following tabular presentation compares the entitlement to benefits of members of the ROTC under existing law with those that would be created by enactment of this bill.

TABLE I.—*Flight instruction phase of ROTC training*

	Covered under current law	FECA coverage under H. R. 5738 as amended
For injury:		
Medical care	No	Yes.
Disability benefits	No	Yes.
Burial benefits	No	Yes.
Survivor benefits	No	Yes.
For disease:		
Medical care	No	No.
Disability benefits	No	No.
Burial benefits	No	No.
Survivor benefits	No	No.
Insurance	No	No.

TABLE II.—*Summer camp and cruise phase of ROTC training*

	Covered under current law	FECA coverage under H. R. 5738 as amended
For injury:		
Medical care	Yes [1]	Yes.
Disability benefits	No	Yes.
Burial benefits	Yes [2]	Yes.
Survivor benefits	No	Yes. [3]
For disease:		
Medical care	Yes [1]	Yes.
Disability benefits	No	Yes.
Burial benefits	Yes [2]	Yes.
Survivor benefits	No	Yes. [3]
Insurance	Yes [4]	No.

[1] Act of June 15, 1936, ch. 547 (10 U. S. C. 455c).
[2] Sec. 3 of the act of July 15, 1954, ch. 507 (5 U. S. C. 2153).
[3] Survivor benefits in the summer camp and cruise phases of ROTC training would exist under both H. R. 5736 and H. R. 7089. However, the Federal Employees' Compensation Act requires an election between benefits under that act and any other payments or benefits from the United States.
[4] Sec. 2 of the act of Apr. 15, 1951, ch. 39, pt. I, as amended (38 U. S. C. 851).

LIABILITY TO THIRD PARTIES

The committee inquired into the burden of liability that may accrue for personal and property damages that may result from the operation of aircraft by ROTC cadets. Although the language of the bill permits the departments to provide the training with Government facilities or to contract with educational institutions or flying school operators to provide this training, representatives of the Department of Defense indicated that the intent is to amend contractual agreements with the educational institutions having ROTC units, so that schools themselves will provide or subcontract for the flight instruction. Thus, it appears that the flight training will be provided by an independent contractor, with the Federal Government not being privy to the contract. The committee was further advised that one of the provisions of the proposed agreement with the educational institutions or the flying school operators requires that the subcontractor shall provide and maintain at all times public liability and property damage insurance in the amount of $300,000 to $500,000 public-liability coverage and $100,000 property damage insurance coverage under terms that will protect the subcontractor, the contractor, and the student. The committee is of the opinion that affirmative action should be taken by the departments to assure that this proposed provision is complied with, perhaps by requiring a certificate from the insuring company that such insurance is in effect. The Federal Government should not be in the position of having even a moral responsibility to compensate for damages resulting to third parties from the operation of aircraft under this program.

Obviously, the liability of the Federal Government is somewhat different if the military departments undertake to provide the flight instruction directly and not through the educational institutions or flying school operators. Despite the realization that the liability of the Federal Government would be different in this instance, the committee has allowed to remain in the bill the authority for the military departments to provide flight training or some of the supplies and equipment necessary in the conduct of this training. The Department desires this flexibility in the event that equipment that is usable in the flying program should become surplus to the Army or the Air Force, thereby reducing the cost of the contract. In the absence of this authority, the military departments also might be entirely dependent upon one contractor in order to have a flying program. With this authority, if contract costs should become excessive, one of the military departments might provide its own flight instruction program or a portion thereof, although it is not contemplated that this action would be taken unless the cost of the program could be reduced by this method.

COST

The Air Force plans to provide flight instruction up to 35 hours per cadet. The planned cost of this training for the Air Force is $12.30 per hour, or $430 per cadet for 35 hours of instruction. The estimate of the Army is $13 per hour, or $455 per cadet. The difference in the estimate represents the cost of providing ground-school instruction by the Army. The Air Force already has ground instruction included in the Air ROTC course.

The cost of the flight instruction during the first full year of operation is estimated at $700,000 for the Air Force and $165,000 for the Army, a total of $865,000. In succeeding years, when the program is fully implemented, it is estimated that the Air Force will provide flight instruction for 4,300 cadets at an annual cost of $1,850,000, and the Army will provide flight instruction for 800 cadets at an annual cost of $330,000.

These costs are exclusive of those attributable to death and disability benefits. The death and disability costs are difficult to estimate, since they depend on casualty experience. A very rough estimate of the disability costs is $17,000 for the Air Force and $9,500 for the Army.

DEPARTMENTAL RECOMMENDATIONS

This measure is a part of the legislative program of the Department of Defense, as is evidenced by the letter dated March 31, 1956, from the Secretary of the Air Force that is printed below and hereby made a part of this report. The proposed amendments mentioned in this letter were not adopted for the reasons outlined above under the treatment of death and disability benefits.

A letter dated January 12, 1956, from the Secretary of Labor and one dated November 16, 1955, from the Comptroller General are also printed below and made a part of this report.

DEPARTMENT OF THE AIR FORCE,
OFFICE OF THE SECRETARY,
Washington, March 31, 1956.

Hon. RICHARD B. RUSSELL,
Chairman, Committee on Armed Services,
United States Senate.

DEAR MR. CHAIRMAN: On March 7, 1955, this Department, acting on behalf of the Department of Defense, recommended enactment of a legislative proposal to the Congress to authorize flight instruction in Army and Air Force Reserve Officers' Training Corps programs and certain medical and death benefits for members of the Reserve Officers' Training Corps of all services. This measure was passed by the House of Representatives, with minor amendments, as H. R. 5738 on July 21, 1955, and is presently pending consideration before your committee.

Since passage of this measure by the House of Representatives, several problems have arisen with respect to the medical and death benefit coverage provided under the Federal Employees' Compensation Act. Certain problems were presented by the Department of Labor dealing with administration of that act. Additionally, a conflict arose as a result of passage by the House of H. R. 7089, the proposed Servicemen's and Veterans' Survivor Benefits Act, which also included certain death benefits for members of the Reserve Officers' Training Corps. This measure is now pending consideration by the Senate Committee on Finance.

As a result of these problems, it has been determined that laws administered by the Veterans' Administration provide the more appropriate vehicle for medical coverage and that coverage of disease or illness previously provided for in this measure should be eliminated;

further, that previous coverage relating to death benefits, except burial benefits, should be removed and incorporated in the survivor benefits measure. Appropriate recommendations in the latter instance have already been made by the Department of Defense to the chairman of the Senate Committee on Finance.

There is enclosed herewith a draft of proposed amendments to H. R. 5738, together with a corresponding sectional analysis thereof. These amendments are designed to accomplish the needed changes and have been coordinated within the Department of Defense and with the Bureau of the Budget. In addition to these changes, section 2 of these amendments includes flight instruction for members of the Naval Reserve Officers' Training Corps and grants permissive authority to the Secretary of the Navy to accomplish training involved in a manner similar to that already authorized in the bill for the Army and the Air Force. Although not contemplated at the time of consideration of this measure by the House of Representatives, it has been subsequently determined desirable that permissive authority be granted the Secretary of the Navy in this instance.

The introduction of flight instruction in the Reserve Officers' Training Corps program is considered an important means of motivating qualified young men, during their formative years to undertake a flying career in the service. Additionally, it detects, at the least expensive time, many who would later fail to complete pilot training after being commissioned for that purpose, thus resulting in a savings to the Government. The enclosed amendments to H. R. 5738 will best serve to accomplish the objectives of the services in this field, and the Department of the Air Force, acting on behalf of the Department of Defense, urgest their early and favorable consideration by your committee.

A copy of this letter and enclosures is being furnished the chairman of the Committee on Armed Services, House of Representatives.

Sincerely yours

DONALD A. QUARLES.

DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
Washington, January 12, 1956.

Hon. RICHARD B. RUSSELL,
Chairman, Committee on Armed Services,
United States Senate, Washington, D. C.

DEAR SENATOR RUSSELL: This is in response to your request for a report on H. R. 5738, a bill to authorize flight instruction during Reserve Officers' Training Corps programs, and for other purposes.

The measure would make the Federal Employees' Compensation Act generally applicable to members of the Reserve Officers' Training Corps of the Army, Navy, and Air Force. Those persons are not covered by that statute at present and I endorse the objective of the bill to afford protection to them and to their dependents in cases of injury or death in line of duty. However, I suggest that death benefits for survivors of ROTC members who die as a result of injury or disease contracted during training be provided as a part of an integrated system of survivors' benefits for servicemen and veterans, such as that which would be provided by H. R. 7089, instead of under the Federal

Employees' Compensation Act. As you know, H. R. 7089 was passed by the House of Representatives on July 21, 1955, and is now pending before the Committee on Finance of the Senate.

In the event that your committee prefers the approach of H. R. 5738 to that of H. R. 7089, comments respecting some of the provisions of section 4 of the former are attached for your consideration.

The Bureau of the Budget advises that there is no objection to the presentation of this report, and suggests that the enactment of H. R. 7089 would be in accord with the program of the President.

Sincerely yours,

JAMES P. MITCHELL,
Secretary of Labor.

DEPARTMENT OF LABOR—COMMENTS ON H. R. 5738

The following comments are submitted respecting section 4 of the bill.

1. In subsection (a) the words "shall apply" should be substituted for the word "applies" (line 18, p. 2) in the interest of clarity.

2. Paragraph (1) of subsection (a) would extend the Federal Employees' Compensation Act to any ROTC member "who is injured in line of duty, or who dies, while engaged in" certain types of military training or while traveling thereto or therefrom by Government vehicle or aircraft. Paragraph (2) would extend that statute to any member "who is injured in line of duty, or who dies, while traveling to or from or while attending" certain other training activities. Since the scope of these paragraphs with respect to travel covered thereby is now substantially broader than when the bill was originally introduced in the House of Representatives, it would seem desirable to limit coverage to "authorized travel" to and from military training as in the case of existing law regarding injury of members of the Army Reserve (5 U. S. C. sec. 797) and the Naval Reserve (34 U. S. C. sec. 855c).

In addition, paragraphs (1) and (2) appear to extend coverage in injury cases only to those who are injured "in line of duty," while extending coverage in death cases without regard to the question of "line of duty." Similarly, these paragraphs would exclude deaths occurring after completion of training or travel thereto or therefrom even though resulting from a line-of-duty injury incurred during such training or travel.

I would suggest that paragraphs (1) and (2) be amended to read as follows:

"(1) Any member who suffers disability or death from an injury incurred in line of duty while engaged in military training, including flight instruction, under * * * or while performing authorized travel to or from that military training by Government vehicle or aircraft.

"(2) Any member who suffers disability or death from an injury incurred in line of duty while performing authorized travel to or from, or while attending * * *."

3. Paragraph (3) of subsection (a) would extend the Federal Employees' Compensation Act to any ROTC member who dies while hospitalized or undergoing treatment for an injury, disease, or illness covered by the subsection. Under its broad terms, however, the paragraph would make the act applicable to members who may die, while so hospitalized or undergoing treatment, from a cause wholly

unrelated to an injury incurred in line of duty. Since a special provision making the act applicable to persons who die as a result of covered injuries or diseases is unnecessary, I suggest that paragraph (3) be deleted.

4. Subsection (b) would result in imposing a ceiling of $150 per month upon the amount of compensation which could be paid for an injury incurred in line of duty. While this limitation would be satisfactory in the great majority of cases, it might be rather low in cases of permanent disability, either total or partial. I think it would be justifiable to provide that for the purposes of computing benefits the monthly compensation of a member who is permanently disabled should, after he attains the age of 25 years, be considered to be $300 per month.

5. Subsection (c) would place in the military department concerned the function of determining whether an injury, disease, or illness was incurred in line of duty and whether such disability was the proximate result of military training or of travel to or from such training. This would depart from the basic processes under the Federal Employees' Compensation Act by vesting adjudicative functions concerning claims under that statute in persons other than the Secretary of Labor, who is now responsible for its complete administration. Such a division of authority would tend to weaken the principle of consistency and uniformity of decision adhered to during the many years of the act's administration. Uniformity in making determinations as to line-of-duty status could not be expected if these determinations are made by several military services. The same would be true of determinations of the question of proximate cause.

These are medical, not legal, questions. They are regularly encountered in the administration of the Compensation Act, and I believe that it is necessary in the interest of good administration to place responsibility for determining these questions in the Department of Labor. Moreover, to vest the function of making these determinations in the military would remove a member's right of appeal to the independent Federal Employees' Compensation Board on factual issues respecting line-of-duty status and proximate cause.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, November 16, 1955.

Hon. RICHARD B. RUSSELL,
Chairman, Committee on Armed Services,
United States Senate.

DEAR MR. CHAIRMAN: Further reference is made to your letter of October 26, 1955, enclosing for our consideration and recommendations, a copy of H. R. 5738, 84th Congress, 1st session, entitled "An act to authorize flight instruction during Reserve Officers' Training Corps programs, and for other purposes."

The Reserve Officers' Training Corps, authorized by section 40 of the National Defense Act, as amended (10 U. S. C. 381), consists of a senior division organized at universities and colleges granting degrees and a junior division organized at other public and private educational institutions. Present law contemplates that standard courses of theoretical and practical military training will be given

members of the corps during the school year and that practical instruction will be given members while at summer camps of up to 6 weeks' duration.

Reserve Officers' Training Corps students are civilians and have no military status. Members of the senior division of the corps enrolled in the advance course (the third and fourth academic years) receive a subsistence allowance while attending school. They receive the pay of a private in the Army and certain travel allowances for attendance at summer camp, and are assimilated to members of the Reserve components of the Armed Forces for purposes of medical treatment, hospitalization, and certain pay-allowance benefits for personal injury or disease suffered in line of duty while traveling to or from and during their attendance at summer camp.

Section 1 of H. R. 5738 would amend existing law to include flight instruction as a part of the school-year training of members of the corps and would authorize the Secretary of the Air Force, for a period of 4 years, to contract with civilian flying or aviation schools or educational institutions, for such instruction. In lieu of the benefits incident to injury or disease now conferred upon members of the corps, the provisions of sections 2, 3, 4, and 5 of H. R. 5738 would make the provisions of the Federal Employees' Compensation Act (39 Stat. 742), as amended (5 U. S. C. 751–793), the exclusive remedy for them, as a result of disability or death incurred under conditions specified in section 4.

The enactment of this bill is urged as a means of stimulating interest in Air Force officer careers among members of the Reserve Officers' Training Corps and to provide a method of determining, prior to their graduation from school, those Air Force Reserve Officers' Training Corps students who may be unsuited for Air Force officer careers because of a temperamental unfitness for flying. See House Report 1266, 84th Congress, to accompany H. R. 5738.

We recognize the problem which this bill seeks to meet, but we have no factual information with respect to those matters and hence, offer no comment upon its effectiveness in meeting that problem.

We perceive no serious objection to making the provisions of the Federal Employees' Compensation Act exclusively applicable to civilian members of the Reserve Officers' Training Corps on the basis explained in the cited House Report 1266. Since, however, the Bureau of Employees' Compensation, United States Department of Labor, is charged with the administration of the Federal Employees' Compensation Act, it is suggested that, if such has not already been done, a report on this feature of the bill be obtained from that Department. Also, Reserve Officers' Training Corps students are included for some purposes in the coverage of H. R. 7089, 84th Congress (passed by the House of Representatives, July 13, 1955), providing benefits for survivors of servicemen and veterans, and your committee may desire to consider the Federal Employees' Compensation Act survivorship features of this bill in conjunction with H. R. 7089.

Sincerely yours,

JOSEPH CAMPBELL,
Comptroller General of the United States.

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Calendar No. 2729

84TH CONGRESS, 2d Session } SENATE { REPORT No. 2683

AUTHORIZING CONVEYANCE OF LAND IN TARRANT AND WISE COUNTIES, TEX., TO THE STATE OF TEXAS

JULY 20 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. STENNIS, from the Committee on Armed Services, submitted the following

REPORT

[To accompany S. 3783]

The Committee on Armed Services, to whom was referred the bill (S. 3783) to direct the Secretary of the Navy or his designee to convey a 2,477.43 acre tract of land, avigation and sewer easements, in Tarrant and Wise Counties, Tex., situated about 20 miles northwest of the city of Fort Worth, Tex., to the State of Texas, having considered the same report favorably thereon with amendments and recommend that the bill, as amended, do pass.

AMENDMENTS TO THE BILL

On page 9, line 22, after the word "Act," insert the following: "including preservation of the aviation potential of the property,".

On page 10, line 22, replace the period with a colon and add the following:

> and such other terms and conditions, including joint use by the Government on a noninterference basis, not inconsistent with the provisions of this Act, as the Secretary of the Navy deems necessary in the interest of the United States.

EXPLANATION OF THE AMENDMENTS

Inasmuch as the Department of the Navy has a mobilization requirement for the use of this property as an aviation facility, section 5 of the bill has been amended in order to preserve the property's aviation potential. Section 7 of the bill has been amended in order to more fully protect the Government and to provide for the joint use by the Government on a noninterference basis.

PURPOSE OF THE BILL

The purpose of the bill is to authorize and direct the Secretary of the Navy or his designee to convey by quitclaim deed without consideration, 2,477.43 acres, including certain avigation and sewer easements in Tarrant and Wise Counties, Tex., to the State of Texas, for use by the State National Guard and the Air National Guard, and for other military purposes.

NECESSITY FOR LEGISLATION

In the exercise of its constitutional power to regulate the disposal of Federal property, the Congress by general legislation has provided for maximum utilization of federally owned property and has provided generally and specifically for disposal of surplus property. The principal statute on this subject is the Federal Property and Administrative Services Act, Public Law 152, 81st Congress, as amended. Provisions have been made for transfers of surplus Government-owned property, both real and personal, to States, political subdivisions, and tax-supported or nonprofit institutions for health and educational purposes. Section 203 (k) of the Federal Property and Administrative Services Act, as amended, in effect authorizes these transfers without consideration by providing public benefit allowances of up to 100 percent. Provisions are made for transfers, without compensation to the Government, of surplus realty for historic monument purposes (50 U. S. C. App. 1622h). States or political subdivisions are given a public benefit allowance of 50 percent of the fair value with respect to transfers of surplus realty for park and recreational use (Public Law 616, 80th Cong.). Statutory provisions are made for transfer without monetary consideration of surplus, Government-owned airport property to States or political subdivisions for public airport use (50 U. S. C. 1622).

No general provision of law now in effect authorizes the transfer of surplus Government-owned real property to States for National Guard purposes. Nevertheless, the Congress has by separate law authorized many conveyances of federally owned realty to the various States to be used for National Guard purposes. With rare exceptions, these laws have provided that the transfers pursuant thereto would be subject to reservations of Federal use during national emergencies and were conditioned on automatic reversion in the event of nonuse for National Guard purposes.

During the 83d Congress six real property conveyances were authorized for National Guard purposes by separate acts. During the current session of the 84th Congress, several such bills have become law and others are in various stages of enactment.

PROPERTY TO BE CONVEYED

The Government acquired this land by civil action in 1942 for the purpose of constructing a Marine Corps air station and for training personnel in the operation and servicing of propeller-driven aircraft. The property was improved by the construction of essential buildings, runways, taxiways, streets, sidewalks, roads, and utilities systems. The Department of the Navy declared the property excess and requested approval of the Armed Services Committees of the Congress

for its disposal. Neither the Department of the Army nor the Department of the Air Force have any requirements for this facility. A complete description of the property is contained in section 1 of the bill.

RESERVATIONS AND RESTRICTIONS

The conveyance is to be without consideration and under the condition that the property shall be used for National Guard or military purposes. In the event the property should cease to be used for these purposes, it shall revert to the United States, including all improvements made thereon by the State of Texas during its occupancy without payment of compensation therefor. Mineral rights, including gas and oil, and the right to recapture in the event of a state of war or other national emergency without consideration are reserved to the United States. The Secretary of the Navy or his designee is authorized to impose such other reservations and restrictions as are consistent with the provisions of this act, including joint use by the Government on a noninterference basis.

FISCAL DATA

No expenditure of Federal funds is involved. The cost of any surveys necessary as an incident to the conveyance shall be borne by the State of Texas.

DEPARTMENTAL RECOMMENDATION

The Department of the Navy, on behalf of the Department of Defense, interposes no objection to the bill as evidenced by the letter dated July 19, 1956, from the Acting Director of the Office of Legislative Liaison, which is printed below and hereby made a part of this report:

DEPARTMENT OF THE NAVY,
OFFICE OF THE SECRETARY,
OFFICE OF LEGISLATIVE LIAISON,
Washington, D. C., July 19, 1956.

Hon. RICHARD B. RUSSELL,
Chairman, Committee on Armed Services,
United States Senate, Washington 25, D. C.

MY DEAR MR. CHAIRMAN: Your request for comment on the bill S. 3783, to direct the Secretary of the Navy or his designee to convey a 2,477.43-acre tract of land, avigation and sewer easements, in Tarrant and Wise Counties, Tex., situated about 20 miles northwest of the city of Forth Worth, Tex., to the State of Texas, has been assigned to this Department by the Secretary of Defense for the preparation of a report thereon expressing the views of the Department of Defense.

The purpose of this measure is to direct the Secretary of the Navy to convey to the State of Texas, without consideration, a 2,477.43-acre tract of land, located in Tarrant (2,468.54 acres) and Wise (8.89 acres) Counties, Tex. The conveyance, including all improvements thereon, avigation rights and other easements, would be upon condition that the property shall be used "primarily for training of the National Guard and the Air National Guard and for other military purposes," and any revenues derived from use or disposal of the property must be

expended solely for the "protection, maintenance, and operation of the facility as a training center."

The Government acquired this land by civil action in 1942 for the purpose of constructing a Marine Corps Air Station for training personnel in the operation and servicing of propeller-driven aircraft. The property has been improved by the construction of administration and personnel buildings, runways, taxiways, streets, sidewalks roads, operational buildings, storage buildings, and utility systems.

This station, at Eagle Mountain Lake, Tex., has been declared excess by the Department of the Navy. Neither the Department of the Army nor the Department of the Air Force having any requirement for the property, the Navy, on March 9, 1956, requested the Armed Services Committees of Congress to approve of disposal. If such approval is forthcoming, the property could be reported to General Services Administration for designation as airport property and disposal pursuant to the provisions of Public Law 289, 80th Congress. The State would then be obligated to maintain the property for operation as a public airport, and the Government would have the right of joint use thereof, along with others, for the landing and takeoff of aircraft.

This bill, however, imposes no specific obligation on the State to maintain and operate the property as an airport, nor does it require the State to preserve the aviation potential of the property. While it might be assumed that training of the Air National Guard would require utilization of the property as an airfield, there is no assurance that the authorized operation of the facility as a "training center" will involve flying.

The bill does not place responsibility for enforcement of the reservations and conditions required to be included in the deed of conveyance. Section 7 of the bill provides that the Secretary of the Navy or his designee shall include in the deed of conveyance specific provisions covering the reservations and conditions contained in sections 2, 3, 4, 5 and 6 of the bill. No specific authority is given to the Secretary to include other terms and conditions. It is recommended that the period at the end of section 7 be changed to a colon and the following words added "and such other terms and conditions, not inconsistent with the provisions of the act, as the Secretary of the Navy deems necessary in the interest of the United States." It is considered that the suggested amendment would permit inclusion in the deed of a provision that the Secretary of the Navy will act on behalf of the United States for enforcement of and compliance with the reservations and conditions contained in the deed.

It is suggested that language be inserted which would permit joint use by the Government on a noninterference basis. If such use should result in significant additional costs for maintenance and operations, the using United States agency should be authorized to reimburse the State of Texas, if so requested.

Subject to the foregoing, the Department of the Navy, on behalf of the Department of Defense, would have no objection to the enactment of S. 3783.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Department of the Navy has been advised by the Bureau of the Budget that while it has no objection to the submission of this

report to the Congress, it believes that this legislation is unnecessary since the proposed transfer can be effected by established administrative procedures.

For the Secretary of the Navy.

Sincerely yours,

N. J. FRANK, Jr.,
Captain, United States Navy,
Acting Director, Office of Legislative Liaison.

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Calendar No. 2730

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2684

AUTHORIZING ADDITIONAL VISAS FOR ORPHANS

JULY 20 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. LANGER, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany S. 3570]

The Committee on the Judiciary, to which was referred the bill (S. 3570) to increase the number of visas authorized to be issued to eligible orphans under the Refugee Relief Act of 1953, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

AMENDMENTS

(1) Page 1, line 6, change the word "fourteen" to "twelve".

(2) Page 2, line 8, strike the words "this section" and insert in lieu thereof the words "Section 5 of the Refugee Relief Act of 1953, as amended,".

(3) On page 2 following line 9 add a new section as follows:

SEC. 3. The Refugee Relief Act of 1953, as amended, is amended by adding a new section 21 at the end thereof as follows:

"SEC. 21. Notwithstanding any other provision of law—

"(a) Any alien admitted to the United States as a nonimmigrant under the provisions of either section 101 (a) (15) (A) or 101 (a) (15) (G) of the Immigration and Nationality Act, who has failed to maintain a status under either of those provisions, and who has not been required to depart from the United States under the authority of section 241 (e) of said Act, may apply to the Attorney General for adjustment of his status to that of an alien lawfully admitted for permanent residence.

"(b) If it shall appear to the satisfaction of the Attorney General that the alien is a person of good moral character, and that such action would not be contrary to the national

welfare, safety or security, the Attorney General, in his discretion, may record the alien's lawful admission for permanent residence as of the date of the order of the Attorney General approving the application for adjustment of status is made.

"(c) A complete and detailed statement of the facts and pertinent provisions of law in the case shall be reported to the Congress with the reasons for such adjustment of status. Such reports shall be submitted on the first and fifteenth day of each calendar month in which Congress is in session. If during the session of the Congress at which a case is reported, or prior to the close of the session of Congress next following the session at which a case is reported, either the Senate or the House of Representatives passes a resolution stating in substance that it does not favor the adjustment of status of such alien, the Attorney General shall thereupon require the departure of such alien in the manner provided by law. If neither the Senate nor the House of Representatives passes such a resolution within the time above specified, the Secretary of State shall, if the alien was classifiable as a quota immigrant at the time of his entry, reduce by one the quota of the quota area to which the alien is chargeable under section 202 of the Immigration and Nationality Act for the fiscal year then current or the next following year in which a quota is available. No quota shall be so reduced by more than 50 per centum in any fiscal year.

"(d) The definitions contained in section 101 (a) and (b) of the Immigration and Nationality Act (66 Stat. 166, 171; 8 U. S. C. 1101 (a) and (b)), shall be applicable in the administration of this Act."

PURPOSE OF AMENDMENTS

The purpose of amendment No. 1 is to lower the age of eligible orphans from 14 years to 12 years.

The purpose of amendment No. 2 is to clarify and show the intent is to extend the date to December 31, 1959, which date applies only to orphan visas.

The purpose of amendment No. 3 is to add a new section to the Refugee Relief Act of 1953, as amended, concerning the adjustment of status of aliens who have been admitted to the United States as non immigrants in a diplomatic or semidiplomatic status, who have failed to maintain that status and who have been granted sanctuary by the Department of State.

PURPOSE

The purpose of the proposed legislation as amended is to liberalize Public Law 203, 83d Congress, as amended (Refugee Relief Act of 1953) in the following respects:

Section 5 (a) of the act provides that 4,000 special nonquota immigrant visas may be issued to eligible orphans who meet the definition of "orphans" as contained in the act and further provides that such orphans must not be over the age of 10 years at the time the visa is issued.

S. 3570 as amended would increase this number of visas by 5,000 and raise the age of the orphan from 10 years to 12 years. It would also add a new subsection making an orphan visa valid until such time as the United States citizen adoptive parent returned to the United States in the course of his service or business and finally, it would extend the cutoff date, as to orphans, from December 31, 1956, to December 31, 1959.

STATEMENT

The Subcommittee on Refugees and Escapees held a hearing on the bill on May 3, 1956, and at that time heard the testimony of Members of Congress and representatives of interested voluntary agencies, all of whom supported the passage of the orphan section of this bill.

The Department of State, as evidenced by the report dated May 2, 1956, also endorses the orphan portion of this bill, however, the Department believes the age of an orphan should be raised from 10 to 14 years.

The officials in the Department are of the opinion that the orphan visas will be exhausted long before the expiration date of December 31, 1956. It is also believed that orphans make the best possible immigrants from the standpoint of their youth, flexibility, and lack of ties to any other cultures.

Based on the hundreds of letters from reputable United States citizens wanting to adopt foreign orphans, which letters are on file in the subcommittee offices, it may be concluded that it would be to the advantage of this country, as well as the orphan, to increase the number of orphan visas permissible. If this is done, it must necessarily follow, that the life of the act would be extended, in order to afford the Department of State time to process the applications.

Also for the convenience of the citizen parent, it is felt that an orphan visa should be valid until such time as the citizen parent returns to the United States in the course of his service or employment.

No witness appeared in opposition to this bill.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

PUBLIC LAW 203, 83D CONGRESS

AN ACT For the relief of certain refugees, and orphans, and for other purposes

* * * * * * *

ORPHANS

SEC. 5. (a) Not to exceed [four thousand] *nine thousand* special nonquota immigrants visas may be issued to eligible orphans as defined in this Act who are under [ten years] *twelve years* of age at the time the visa is issued: *Provided*, That not more than two such special nonquota immigrant visas may be issued to eligible orphans

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adopted or to be adopted by any one United States citizen and spouse, unless necessary to prevent the separation of brothers or sisters.

* * * * * * * *

"(*d*) *Any visa issued under this section to any eligible orphan who has been lawfully adopted abroad by a United States citizen and spouse while such citizen is serving abroad in the United States Armed Forces, or is employed abroad by the United States Government, or is temporarily abroad on business, shall be valid until such time as the adoptive citizen parent returns to the United States in due course of his service or business.*

"(*e*) *Notwithstanding any other provision of law, visas may be issued under this section to eligible orphans until December 31, 1959.*"

ADJUSTMENT OF STATUS OF CERTAIN ALIENS GRANTED SANCTUARY

"*SEC. 21.* (*a*) *Any alien admitted to the United States as a nonimmigrant under the provisions of either section 101* (*a*) (*15*) (*A*) *or 101* (*a*) (*15*) (*G*) *of the Immigration and Nationality Act, who has failed to maintain a status under either of those provisions, and who has not been required to depart from the United States under the authority of section 241* (*e*) *of said Act, may apply to the Attorney General for adjustment of his status to that of an alien lawfully admitted for permanent residence.*

"(*b*) *If it shall appear to the satisfaction of the Attorney General that the alien is a person of good moral character, and that such action would not be contrary to the national welfare, safety or security, the Attorney General, in his discretion, may record the alien's lawful admission for permanent residence as of the date of the order of the Attorney General approving the application for adjustment of status is made.*

"(*c*) *A complete and detailed statement of the facts and pertinent provisions of law in the case shall be reported to the Congress with the reasons for such adjustment of status. Such reports shall be submitted on the first and fifteenth day of each calendar month in which Congress is in session. If during the session of the Congress at which a case is reported, or prior to the close of the session of Congress next following the session at which a case is reported, either the Senate or the House of Representatives passes a resolution stating in substance that it does not favor the adjustment of status of such alien, the Attorney General shall thereupon require the departure of such alien in the manner provided by law. If neither the Senate nor the House of Representatives passes such a resolution within the time above specified, the Secretary of State shall, if the alien was classifiable as a quota immigrant at the time of his entry, reduce by one the quota of the quota area to which the alien is chargeable under section 202 of the Immigration and Nationality Act for the fiscal year then current or the next following year in which a quota is available. No quota shall be so reduced by more than 50 per centum in any fiscal year.*

"(*d*) *The definitions contained in section 101* (*a*) *and* (*b*) *of the Immigration and Nationality Act* (*66 Stat. 166, 171; 8 U. S. C. 1101* (*a*) *and* (*b*)), *shall be applicable in the administration of this Act.*"

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Calendar No. 2731

84TH CONGRESS, 2d Session } SENATE { REPORT No. 2685

AMENDING THE ACT AUTHORIZING THE EXCHANGE AND AMENDMENT OF CERTAIN FARM UNITS IN ORDER TO LIMIT THE TIME DURING WHICH APPLICATIONS MAY BE MADE UNDER SUCH ACT

JULY 20 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. DWORSHAK, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany S. 3957]

The Committee on Interior and Insular Affairs, to whom was referred the bill (S. 3957) to amend the act authorizing the exchange and amendment of certain farm units in order to limit the time during which applications may be made under such act, having considered the same, report favorably thereon with an amendment in the nature of a substitute and recommend that the bill, as amended, do pass.

AMENDMENT

Strike out all after enacting clause and insert in lieu thereof the following:

That sections 1 and 2 of Public Law 258, 83d Congress, approved August 13, 1953 (All 67 Stat. 566), be amended to read as follows:

"That any entryman on an unpatented farm unit on a Federal irrigation project which shall be found by the Secretary of the Interior, pursuant to a land classification, to be insufficient to support a family shall be entitled, upon timely application to the Secretary to exchange his farm unit for another farm unit of unentered public land within the same or any other such project in the same State, or, upon terms and conditions satisfactory to the Secretary, for any other available farm unit on the same or any other such project in the same State. He shall be given credit under the homestead laws for residence, improvement, and cultivation made or performed upon the original entry, and if satisfactory final proof of residence, improvement, and cultivation has been made on the original entry it shall not be necessary to submit such proof upon the lieu entry. Rights under this Act shall not be assignable.

"SEC. 2. The benefits of section 1 of this Act shall, and those of the following sections may, be extended by the Secretary to (a) any lawful assignee of an unpatented farm unit on a Federal irrigation project who took the assignment in good faith not knowing and not having reason to believe the farm unit to be insufficient to support a family; and (b) any resident owner of private lands on

any such project whose lands shall be found to be insufficient to support a family and (i) who, apart from his ownership of the lands to be conveyed pursuant to clause (iii) hereof and apart from his having previously exhausted his homestead right, if such be the case, is eligible to enter unappropriated public lands under Revised Statutes, section 2289, as amended (43 U. S. C. 161), (ii) who lawfully acquired his lands as an entire farm unit, and can show to the satisfaction of the Secretary that he has made reasonable and diligent efforts to bring those lands into a state of economically sufficient productivity, and (iii) who conveys, free from all encumbrances, to the United States all of his lands served by the project or such portion thereof as the Secretary may designate."

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to alleviate, so far as practicable, the speculative abuses that have arisen in the settlement of public lands on reclamation projects that have been brought to the attention of the committee. Previous legislation with respect to settlement has failed to authorize controls which are provided for in the amendment.

Section 1 is amended so that the exchangee on farm units on public lands is limited to the exchange of a farm unit within the State in which the original farm unit is located. This amendment is for the purpose of preventing an exchangee from one State from securing a farm unit on a reclamation project in another State where public lands on reclamation projects may be open to settlement.

Section 2 (b) (ii) is amended to insist on the demonstration, to the satisfaction of the Secretary, that the resident owner has made reasonable and diligent efforts to farm his unit in a manner that should produce a satisfactory living for the farm family. This amendment broadens the provisions of the original act in that it makes all resident owners, regardless of from whom they purchased their original unit, eligible for exchanges under the act. Under the original act, only those resident owners who had purchased their farm units under the reclamation law were eligible for exchange.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, S. 3957, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman.

That any entryman on an unpatented farm unit on a Federal irrigation project which shall be found by the Secretary of the Interior, pursuant to a land classification, to be insufficient to support a family shall be entitled, upon timely application to the Secretary to exchange his farm unit for another farm unit of unentered public land within the same or any other such project *in the same State*, or, upon terms and conditions satisfactory to the Secretary, for any other available farm unit on the same or any other such project *in the same State*. He shall be given credit under the homestead laws for residence, improvement, and cultivation made or performed upon the original entry, and if satisfactory final proof of residence, improvement, and cultivation has been made on the original entry it shall not

be necessary to submit such proof upon the lieu entry. Rights under this Act shall not be assignable.

SEC. 2. The benefits of section 1 of this Act shall, and those of the following sections may, be extended by the Secretary to (a) any lawful assignee of an unpatented farm unit on a Federal irrigation project who took the assignment in good faith not knowing and not having reason to believe the farm unit to be insufficient to support a family; and (b) any resident owner of private lands on any such project whose lands shall be found to be insufficient to support a family and (i) who, apart from his ownership of the lands to be conveyed pursuant to clause (iii) hereof and apart from his having previously exhausted his homestead right, if such be the case, is eligible to enter unappropriated public lands under Revised Statutes, section 2289, as amended (43 U. S. C. 161), (ii) who lawfully acquired his lands as an entire farm unit, *and can show to the satisfaction of the Secretary that he has made reasonable and diligent efforts to bring those lands into a state of economically sufficient productivity,* [under the Federal reclamation laws from the United States or, in the case of a widow, widower, heir, or devisee, from a spouse or ancestor, as the case may be, who so acquired them,] and (iii) who conveys, free from all encumbrances, to the United States all of his lands served by the project or such portion thereof as the Secretary may designate.

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Calendar No. 2732

84TH CONGRESS, 2d Session } SENATE { REPORT No. 2686

RELATIVE TO THE CONSERVATION AND DEVELOPMENT OF LAND AND WATER RESOURCES

JULY 20 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. MURRAY, from the Committee on Interior and Insular Affairs and the Committee on Public Works, submitted the following

REPORT

[To accompany S. Res. 281]

The Committee on Interior and Insular Affairs and the Committee on Public Works, to whom was jointly referred the resolution (S. Res. 281) to reassert and to reestablish the powers and the functions of the Congress in the field of land and water resources development, having considered the same, report favorably thereon with amendments, and jointly recommend that the resolution, as amended, be agreed to by the Senate.

GENERAL STATEMENT BY ORIGINAL SPONSORS

The following statement, in explanation of the reasons for and the objectives of this resolution, was submitted by its sponsors at the time of its introduction:

STATEMENT IN EXPLANATION OF SENATE RESOLUTION 281

The purpose of this Senate resolution is to correct a situation in which the executive agencies of the Government are progressively arrogating to themselves land and water resources development policymaking functions which properly reside with the Congress.

It is elementary that the National Government has a set of constitutional powers which provide the legal foundation for broad activity in this field. These derive from the commerce clause, the property clause, the treatymaking provisions, the war powers clauses, and the power to provide for the general welfare.

For more than a half-century the Congress has repeatedly exercised these constitutional powers through the enactment

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of legislation authorizing the construction of works and directing the conduct of activities in myriad fields of land and water resources conservation and development. These fields include the following:

1. River regulation.
2. Rivers and harbors and inland waterways.
3. Improvement of navigation.
4. Control of floods.
5. Conservation, storage, and replenishment of surface and underground water supplies, and their release and delivery for domestic, agricultural, municipal, and industrial purposes.
6. Generation, transmission, and marketing of hydroelectric power and energy.
7. Watershed management.
8. Soil conservation.
9. Salinity repulsion.
10. Stream pollution abatement.
11. Beach erosion control.
12. Conservation and development of fish and wildlife resources.
13. Protection of life and health.
14. Enjoyment of recreational benefits.

The Congress has regularly appropriated moneys for loans, grants, and direct expenditures for the foregoing purposes.

These many years have built up a large body of organic law, with an attendant growth of traditional standards, procedures, and techniques, all reflecting a fundamental and well-established national policy of Federal participation in the full utilization of all of our land and water resources.

More recently, however, a dangerous trend of encroachment by the executive agencies on the constitutional powers of the legislative branch of the Government has become apparent.

On December 31, 1952, the Bureau of the Budget issued circular No. A–47, on the subject Reports and Budget Estimates Relating to Federal Programs and Projects for Conservation, Development, or Use of Water and Related Land Resources. It is generally recognized that many land and water resources projects which already are in varying stages of authorization, construction, and operation could not have been justified as economically feasible by the rigid, executively, imposed standards of circular No. A–47.

It is empirically demonstrable, nevertheless,, that the potential contributions of these projects to the national wealth exceeds the initial Federal investment by many times.

On November 29, 1954, the Bureau of the Budget proposed a revision of circular No. A–47. This revision, if adopted, would establish even more inflexible standards for Federal participation in the conservation and development of land and water resources.

Circular No. A–47 and the proposed revision were the subjects of hearings conducted by the House Committee on Interior and Insular Affairs March 15 and 30, 1955. It was

then indicated by the Director of the Bureau of the Budget that formal issuance of a revision of the circular would await the recommendations of the Presidential Advisory Committee on Water Resources Policy, consisting of the Secretary of Defense, the Secretary of the Interior, and the Secretary of Agriculture. This Committee had been designated by the President May 26, 1954, with an instruction to submit its recommendation "* * * not later than December 1, 1954."

The Committee's report was not submitted, however, until December 22, 1955, and it was transmitted to the Congress by the President January 17, 1956, with his recommendation that "* * * the Congress give prompt attention to its proposals." Shortly thereafter, on January 24, 1956, the President transmitted to the Congress his Economic Report, in which it was stated that "in due course, legislative proposals will be submitted to implement the recommendations" of the Presidential Advisory Committee on Water Resources Policy. No such proposals have yet been submitted to the Congress, nor, on the other hand, has the proposed revision of Budget Circular No. A–47 been formally adopted.

However, there are indications that the executive agencies may undertake to put the recommendations of the Presidential Advisory Committee on Water Resources Policy into actual operation by administrative fiat. The practical application of a number of them would have a most serious and damaging impact on the continued conservation and development of the land and water resources of the Nation, by reason of the resultant curtailment of Federal participation in such activity.

Exemplary of the expressed executive attitude is a statement of the Presidential Advisory Committee on Water Resources Policy in the submittal of its report to the President. It is there stated that the recommendations are believed to "* * * avoid the undue intrusion of the Federal Government into this field." The Committee further has recommended that individual units within regional or river-basin plans be set up as component segments or projects, stating that "to so separate general plans into their component projects offers much wider opportunity for participation of non-Federal agencies, and thus not only reduces Federal responsibility but leaves the door open for local initiative."

The Committee has recommended an evtraordinary and highly layered scheme of organization for the planning and review of land and water-resources projects. This would include (1) a number of regional or river basin water resources committees, composed of Federal and State representatives, which would "* * * coordinate resources planning and development activities" and recommend annual work schedules "* * * to be reflected in the budget requests of each cooperating agency"; (2) a permanent Interagency Committee on Water Resources, composed of high-level officials of six Federal agencies, to "* * * have authority by unanimous action to determine finally interagency relationships"; (3) an office of Coordinator of Water Resources, in

the Executive Office of the President, which would "* * * cooperate with the Bureau of the Budget and the Council of Economic Advisers in the evaluation of departmental requests for appropriations, and assist in the reconciliation of water-resources policy with other Federal policies"; and (4) a Board of Review for Water Resources Projects, also in the Executive Office of the President, composed of three persons "* * * who have had no part in the original planning of the projects they would be asked to review and who would not be involved in the subsequent construction of such projects."

The functions of all of the foregoing would be in addition to and separate from the functions of the several operating agencies and the budgetary, fiscal policy review, and legislative-clearance functions of the Bureau of the Budget. It is manifest that the repetitive review which these processes would entail could succeed in bringing Federal participation in land and water-resources conservation and development to a complete standstill.

The Presidential Advisory Committee on Water Resources policy has failed to accord adequate recognition to the development of hydroelectric power potential as a national water-resources problem. This is particularly true with respect to the essential financial significance of such development in the economic justification of multiple-purpose projects for the irrigation and reclamation of arid and semiarid lands in the 17 Western States.

The Presidential Advisory Committee on Water Resources Policy has recommended that "* * * no loans or guaranties should be made to cover costs of developing projects or portions thereof for power or municipal and industrial water, since, if these are economically sound, they may be readily financed otherwise."

With respect to the evaluation of projects for the conservation and development of land and water resources, the Presidential Advisory Committee on Water Resources Policy has recommended (1) that the separable costs-remaining benefits method of costs allocation be employed to the exclusion of other methods, (2) that benefit-cost ratios be calculated on the basis of primary benefits only, (3) that the evaluation period for estimating benefits and costs in no circumstances be greater than 50 years, and (4) that all Federal agencies conform to uniform standards of evaluation.

It is imperative that the Congress reaffirm and implement its constitutional responsibility for establishing national policies and prescribing standards in the field of land and water resources conservation and development. Legislative acquiescence in a contrary course of executive action would constitute an abdication of that responsibility. This resolution will make clear the sense of the Senate.

TESTIMONY BEFORE COMMITTEES

Copies of the resolution were sent, over the signatures of both the chairman of the Committee on Interior and Insular Affairs and the chairman of the Committee on Public Works, to all of the executive

departments and establishments which it was conceived should have any responsibility within the field of the subject matter embraced by the resolution, with earnest requests for their written comments and invitations for oral supplementation by their authorized spokesmen. These requests and invitations went to the Director of the Bureau of the Budget, the Secretary of Defense, the Attorney General, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Health, Education, and Welfare, and the Chairman of the Federal Power Commission.

Pursuant to the joint reference of the resolution, joint hearings before the Committee on Interior and Insular Affairs and the Committee on Public Works were held July 6 and July 9, 1956. The committees then had before them responses from all of the above executive officers, except the Attorney General.

The spokesman for the Bureau of Budget insisted that Budget Circular No. A–47, its proposed revision, and the report of the Presidential Advisory Committee on Water Resources Policy have been intended only as guides in the executive planning and review of land and water resources development projects in the absence of specific congressional guidance. It remained unclear, however, wherein the standards embodied in those documents should be so restrictive as to require frequent and substantial departures from them in order to justify projects conceded to be otherwise worthy of the initial investment of Federal funds for the common good.

The most forthright and authoritative declaration of the executive branch, through indirection, came from the Department of the Army, in its report of June 28:

> This Department favors action by the Congress setting forth uniform policies and procedures to be followed by Federal agencies concerned with the development and control of the land and water resources of the Nation. These policies should cover planning and processing procedures, evaluation, allocation of costs, cost sharing, and other related matters.
>
> This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.
>
> Inasmuch as the committee has requested that the report be expedited, it is submitted without a determination by the Bureau of the Budget as to whether or not it conforms to the program of the President. As soon as such advice is received it will be forwarded to your committee.

On July 6, the Department of the Army informed the chairman of the Committee on Interior and Insular Affairs that—

> * * * the Bureau of the Budget, on July 5, 1956, advised the Department of the Army that it had no objection to the report submitted to you on June 28, 1956.

Oral presentations were made during the July 6 and July 9 hearings by representatives of the Bureau of the Budget, the Department of Defense, the Department of the Interior, the Department of Agriculture, and the Federal Power Commission.

Other witnesses were representatives of the National Rural Electric Cooperative Association, the Missouri River Division of the Mississippi Valley Association, the Brazos River Authority, of Texas, the

Central and Southern Florda Flood Control District, the Central Arizona Project Association, and the National Reclamation Association.

In addition, the record of the hearings on Senate Resolution 281 includes written comments by the State of New Mexico, through State Engineer S. E. Reynolds, the Upper Colorado River Commission, through Ival V. Goslin, its engineer-secretary, the North Dakota State Water Conservation Commission, through Milo W. Hoisveen, its secretary and chief engineer, Morris L. Cooke, Chairman of the President's Water Resources Policy Commission in 1950–51, and the Ohio Valley Improvement Association, through William J. Hull, the chairman of its legislative committee.

It should not escape notice that the oral testimony and the written comments from the private or other non-Federal sources were, without exception, in support of this resolution.

The Federal agencies have expressed themselves tactfully, discreetly, and, on occasion, equivocally, both in writing and orally. The Bureau of the Budget has, understandably, presented the most skillful and most polished response to the committees' requests for comments. In Acting Director Jones' letter of June 22, a paraphrasing of the text of the resolution is accompanied throughout by what in effect is either (*a*) a hearty endorsement of its principles, or (*b*) a dignified disclaimer that there ever has or ever will be an administrative departure from its principles.

HISTORY OF FEDERAL PARTICIPATION IN NATIONAL RESOURCES DEVELOPMENT

President Theodore Roosevelt, in an extended message to the Congress that has become a literary landmark to those who are intensely interested in both the wise conservation and the wise use of the Nation's natural resources, had this to say some 55 years ago, 1 year before the enactment of the Reclamation Act, and with particular reference to the development of land and water resources:

> The forests are natural reservoirs. By restraining the streams in flood and replenishing them in drought they make possible the use of waters otherwise wasted. They prevent the soil from washing, and so protect the storage reservoirs from filling up with silt. Forest conservation is therefore an essential condition of water conservation.
>
> The forests alone cannot, however, fully regulate and conserve the waters of the arid region. Great storage works are necessary to equalize the flow of streams and to save the flood waters. *Their construction has been conclusively shown to be an undertaking too vast for private effort. Nor can it be best accomplished by the individual States acting alone. Far-reaching interstate problems are involved; and the resources of single States would often be inadequate. It is properly a national function, at least in some of its features. It is as right for the National Government to make the streams and rivers of the arid region useful by engineering works for water storage as to make useful the rivers and harbors of the humid region by engineering works of another kind.* The storing of the floods in reservoirs at the headwaters of our

rivers is but an enlargement of our present policy of river control, under which levees are built on the lower reaches of the same streams.

The Government should construct and maintain these reservoirs as it does other public works. Where their purpose is to regulate the flow of streams, the water should be turned freely into the channels in the dry season to take the same course under the same laws as the natural flow. [Emphasis supplied.] (35 Congressional Record 86.)

Our highest Court has repeatedly upheld the activities which this statement envisaged.

AMENDMENTS

The amendments recommended are as follows:

Page 2, insert an additional paragraph in the preamble as follows:

Whereas notwithstanding that the conditions recited in this resolution result by reason of policies or actions under more than one national administration and by more than one branch and department of the Federal Government, it is desirable that this Congress initiate proper corrective action;

Page 2, line 5, strike the words "Federal Government" and insert in lieu thereof "Congress".

Page 2, line 6, strike the words "not only".

Page 2, line 7, strike the words "but to participate in".

Page 2, line 8, strike the words "for all purposes," and insert in lieu thereof "to establish national policy pertaining thereto,".

Page 3, line 1, strike the words "the continued" and insert in lieu thereof "and that any".

Page 3, line 2, strike the words "fundamental and"; strike the words "national policy" and insert in lieu thereof "principle".

Page 3, lines 21 and 22, strike words "congressional committees having jurisdiction of the subject matter," and insert in lieu thereof "Congress;".

Page 4, line 4, strike "traditional".

Page 4, lines 5 and 6, strike the words "settled administration of the large body of organic".

Page 4, lines 8 and 9, strike the words "full examination and consideration" and insert in lieu thereof "approval".

Page 4, after line 9, insert a new section as follows:

SEC. 6. That the Committee on Interior and Insular Affairs and the Committee on Public Works be, and they hereby are, directed jointly to study, in consultation with other appropriate committees and executive agencies, and to design and to formalize a comprehensive and particularized set of standards and overall criteria for the evaluation of all proposed projects for the conservation and development of land and water resources, including attention to the several specific factors recognized in section 4 of this resolution, all to the end that the Congress shall fully exercise its constitutional powers, as reflected throughout the text of this resolution. The Committee on Interior and Insular Affairs and the Committee on Public Works are hereby directed to submit to the Senate, as early as practicable during the first session

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of the Eighty-fifth Congress, a detailed report with respect to their implementation of this section.

EVALUATION OF AMENDMENTS

The first amendment adds an additional clause to the preamble, for the purpose of clarifying the intent of the resolution and the desirability that the Congress initiate proper corrective action to maintain a proper relationship between the legislative and the executive branches.

The other amendments, with the exception of section 6, are for the purpose of clarification, or are principally consequential.

The amendment embodying section 6, offered by the Senator from Oklahoma (Mr. Kerr), chairman of the Subcommittee on Flood Control of the Public Works Committee, implements the resolution. It directs the Committee on Interior and Insular Affairs, and the Committee on Public Works to initiate a joint study for the purpose of developing a comprehensive standard for the evaluation of all proposed water projects so far as the requirements of the Senate are concerned. The study is to be carried out in consultation with other appropriate legislative committees and the executive agencies concerned, and a detailed report with respect to the results of the study and recommendations for its implementation are to be made as early as practicable during the 1st session of the 85th Congress.

COMMITTEES' CONCLUSIONS

The Committees on Interior and Insular Affairs and Public Works are concerned about the great expansion in the need for control and utilization of our Nation's water supplies and feel that Congress should maintain its prerogative in establishing policies and procedures for the development of these resources, and that studies and procedures are necessary in order to assure that the proper information will be submitted to Congress for its consideration of water resources development projects.

This resolutiton is designed to accomplish the desired purpose and the committees recommend its passage, as amended.

EXECUTIVE REPORTS

The following are comments of executive agencies on Senate Resolution 281:

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D. C., June 22, 1956.

Hon. JAMES E. MURRAY,
Chairman, Committee on Interior and Insular Affairs,
Hon. DENNIS CHAVEZ,
Chairman, Committee on Public Works,
United States Senate, Senate Office Building,
Washington, D. C.

MY DEAR MR. CHAIRMEN: This is in reply to your joint letter of June 13, 1956, requesting the comments of the Bureau of the Budget on Senate Resolutiton 281, dealing with water resources policy and

standards and criteria for authorization of water resources projects.

The Bureau of the Budget does not consider it appropriate to make a recommendation with regard to action on Senate Resolution 281. It is a matter entirely within the responsibility of the Senate. Our comments are intended to explain pertinent facts and circumstances bearing upon Senate Resolution 281.

Senate Resolution 281 appears to be directed at project reports submitted to the Congress in support of the request for authorization of water resources projects. The resolution consists of a series of statements of policy which, if acted on favorably by the Senate, would represent an expression of the views of the Senate on general matters of water policy and would affect the actions to be taken by the substantive committees of the Senate which have legislative responsibility for the various Federal programs. The Senate, of course, may at any time adopt as a guide expressions of policy regarding water resources programs. On the other hand, the submission of a project report to the Congress as a basis for legislative authorization is a recommendation by an agency of the executive branch of the Government made in response to a statutory requirement as to procedures to be followed. In the interest of orderly operation of the executive branch, the Bureau of the Budget under Executive Order No. 9384 has since 1943 conducted a review of project reports on behalf of the President. This procedure is designed to assure that submission of a project report to the Congress either is consistent with the programs and policies of the President or informs the Congress of any objections or other views the President may have regarding the project.

The preamble of Senate Resolution 281 refers to the issuance by the Bureau of the Budget, on December 31, 1952, of Budget Circular No. A–47, setting forth standards and procedures for the review of proposed Federal water and related land resources programs and projects. The preamble also refers to a draft revision of circular A–47, circulated for review and comment to the interested Federal agencies on November 29, 1954. Budget Circular A–47 and the draft revision of the circular were the subject of hearings held by the House Committee on Interior and Insular Affairs on March 15, and March 30, 1955, at which former Budget Director Rowland R. Hughes testified.

As Mr. Hughes stated at that time, the original circular A–47 was issued by the previous administration, and the circular has been under review by the present administration. No decisions have yet been made with regard to issuance of a revised circular A–47, but we recognize the need for standards and criteria to guide the executive departments and agencies in preparing recommendations on water resources projects. The matters dealt with in circular A–47 are related to the comprehensive review of water policy which was undertaken, at the President's direction, by his Advisory Committee on Water Resources Policy. The recommendations of the Advisory Committee have been commended by the President for the consideration of the Congress in the President's letter of January 17, 1956

While specific legislative proposals to implement the recommendations of the Presidential Advisory Committee have not yet been sent to the Congress, consideration is being given to such legislative proposals. At the same time, of course, consideration is being given to the possibility of implementing those aspects of the Water Policy

Report which lie wholly within the administrative responsibilities of the executive branch. Revision of Budget Circular A–47, therefore, has been deferred pending determination as to which aspects of the Water Policy Report will require legislation for implementation.

It should be noted and emphasized that the use of such general standards by the executive branch in the review of project reports does not determine the recommendations of the operating agencies to the Congress regarding authorization of projects, and does not change any of the requirements of existing law. As stated in paragraph 4 of Circular A–47, "The standards and procedures set forth in this Circular shall not be regarded as authorizing any deviation from general or specific requirements of law." Actions taken by the Executive Office of the President under Circular A–47, therefore, represent presentation of information and recommendations to the Congress. The Congress, of course, in its action on legislation, makes the final decisions on authorization of projects.

In the body of the proposed Senate resolution, section 1 states that it is the sense of the Senate that the wise and orderly use of the land and water resources of the Nation requires the exercises by the Federal Government of its constitutional powers to encourage and to participate in the development of such resources for all purposes and that "the continued nullification by the executive agencies of this fundamental and long-established national policy would constitute a usurpation of the legislative power."

The Bureau of the Budget agrees that the basic importance of the water resources of the Nation requires the continued participation by the Federal Government in the development of these valuable resources. This administration has consistently made provision in its annual budget recommendations for the initiation of construction of an additional number of new projects. Further, the Bureau is not aware of any instances in which the executive agencies of the Government have in any sense nullified, or attempted to nullify, the fundamental and long-established national policies regarding the development of water resources.

Section 2 states that, in order to realize the most efficient and optimum development of land and water resources, such developments should be planned and undertaken on a comprehensive basis. The Bureau of the Budget is in complete agreement with the objective of this section. The administration's endorsement of the upper Colorado River storage project clearly indicates its strong support of sound, comprehensive river-basin development. In addition, there have recently been transmitted to the Congress, by direction of the President, the comprehensive reports on the New England-New York region and the Arkansas-White-Red River Basins. These reports are desirable steps toward comprehensive river basin planning in line with the sense of section 2 of the resolution.

Section 3 resolves that the number of Federal agencies, offices, and organizations having to do with the planning and review of land and water resources projects should be reduced, rather than increased. and that technical and administrative routing and review procedures should be simplified and shortened in order to facilitate and to accelerate the transmittal of reports to the Congress in support of requests for the authorization of projects.

The Bureau of the Budget has long been concerned with the need to simplify and improve the organization of the executive branch for the planning and review of natural resources programs and projects. From our studies and from the investigations of other groups such as the first and second Hoover Commissions and the Presidential Advisory Committee on Water Resources Policy, it would appear that the desired improvements to promote consistency and coordination among the Federal and State agencies involved can be achieved in either of two ways: (1) consolidating departments and agencies in the field of resource development, or (2) accepting multiple-agency administration but providing additional special organizational arrangements. After giving careful consideration to the problems involved, the Presidential Advisory Committee on Water Resources Policy recommended the latter approach.

Section 4 expresses the principle that reports to the Congress for authorization of projects should be evaluated in accordance with criteria prescribed by the appropriate congressional committees and should fully disclose the details and results of all studies and analyses regarding the economic evaluation, costs, and financial arrangements for proposed projects. Project reports are designed for this specific purpose and constitute a procedural step prescribed in law as a step precedent to legislative authorization of the project by the Congress. As such the report and accompanying views represent recommendations to the Congress either for favorable or unfavorable action. In the former case they should be consistent with the programs and policies of the President. In the latter case they should clearly state the reason for the adverse views. In either case the Bureau of the Budget conducts its review work in such a way as to assure full disclosure of all pertinent information regarding the economic evaluation and financial aspects of proposed project developments.

Section 5 of the resolution states that the preservation of the constitutional principle of the separation of powers requires that any departure by the executive agencies from the traditional policies, standards, and procedures growing out of the settled administration of the large body of organic law governing the conservation and development of the land and water resources of the Nation be effected only after full examination and consideration by the Congress. Again, the Bureau of the Budget agrees.

Each water resources project report requires specific action by the Congress, unless the project can be administratively authorized under general provisions of existing law. Under these circumstances, the Bureau of the Budget believes that the conservation and development of land and water resources are being effected after full examination and consideration by the Congress. At the same time, it should be recognized that, in the complex field of water resources development, changes in basic legislation will be required from time to time to accommodate Federal programs to the economic growth and changing needs of the Nation. While the separation of powers set forth in the Constitution places on the Congress the responsibility of enacting such legislation, it also places responsibility on the Executive to recommend measures for the consideration of the Congress. These may involve recommended changes in basic legislation and the administration thereof.

The Bureau of the Budget appreciates this opportunity to comment with regard to the provisions of Senate Resolution 281 and will be available to participate in any hearings on this subject, if desired.

Sincerely yours,

A. R. JONES, *Acting Director.*

DEPARTMENT OF THE ARMY,
Washington, D. C., June 28, 1956.

Hon. JAMES E. MURRAY,
Chairman, Committee on Interior and Insular Affairs,
United States Senate.

DEAR MR. CHAIRMAN: Reference is made to your request to the Secretary of Defense for the views of the Department of Defense with respect to Senate Resolution 281, 84th Congress, a resolution relative to the conservation and development of land and water resources. The Secretary of Defense has assigned to the Department of the Army responsibility for preparation of a report thereon.

The Department of Defense has considered the above-mentioned resolution. The purpose of the resolution is to declare the sense of the Senate with respect to the utilization and development of land and water resources policy.

The Department of Defense has always recognized that it is the function of Congress to determine what projects shall be undertaken or participated in by the Federal Government and to establish uniform rules and regulations for those projects if it wishes, and the Department conforms strictly to legislative directives.

This Department favors action by the Congress setting forth uniform policies and procedures to be followed by Federal agencies concerned with the development and control of the land and water resources of the Nation. These policies should cover planning and processing procedures, evaluation, allocation of costs, cost sharing, and other related matters.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

Inasmuch as the committee has requested that the report be expedited, it is submitted without a determination by the Bureau of the Budget as to whether or not it conforms to the program of the President. As soon as such advice is received it will be forwarded to your committee.

Sincerely yours,

WILBER M. BRUCKER,
Secretary of the Army.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D. C., July 2, 1956.

Hon. JAMES E. MURRAY,
Chairman, Committee on Interior and Insular Affairs,
United States Senate.

Hon. DENNIS CHAVEZ,
Chairman, Committee on Public Works,
United States Senate.

GENTLEMEN: A report has been requested from this Department on Senate Resolution 281, a measure which, if adopted, would express the sense of the Senate with respect to certain matters concerning the planning and preparation of reports on water-resource developments.

Reference is made in the resolution to the report of the Presidential Advisory Committee on Water Resources Policy (H. Doc. No. 315, 84th Cong.) and the fear is expressed that the recommendations contained therein "may be implemented by direct action of the executive agencies" rather than by congressional enactment. This report expresses basic and carefully considered policy conclusions of this administration. It is the intent of the administration to seek legislative implementation of those conclusions in every case in which existing law does not clearly leave discretion in the executive agencies. You may be assured that, like the authors of the resolution, the Department of the Interior is fully aware of the constitutional doctrine of separation of powers and that its constant effort has been and will be to avoid even seeming to arrogate to itself those powers which belong to the Congress.

This Department is also committed to assisting in "the effectuation of the wisest, most orderly, and most economic utilization of the land and water resources of the Nation for the widest possible benefit." It favors planning water resource developments "on comprehensive bases and with a view to such an ultimately integrated operation of component segments as will insure the realization of an optimum degree of physical and economic efficiency." It is of opinion that its reports to Congress, whether in support of or in opposition to proposals for the authorization of projects for the conservation and development of land and water resources, should and do "disclose the details and results of all studies and analyses of all potential utilizations, costs, allocations, payout, and benefits, both direct and indirect, made by * * * interested operating agencies." It does everything within its power "to facilitate and to accelerate the submittal of reports to the Congress in support of requests for the authorization of projects" whenever it has the factual materials with which to do so and the proposed projects are found worthy. It endeavors and will endeavor in every way possible to cooperate with the congressional committees having jurisdiction over legislation involving projects in which it is interested and to present to those committees data on the projects in such form that they can determine their merits on the basis of such criteria as they may adopt as well as in terms of the criteria prescribed by other competent authority.

The Bureau of the Budget has advised that there would be no objection to the submission of this report to your committee.

Sincerely yours,

FRED A. SEATON,
Secretary of the Interior.

DEPARTMENT OF AGRICULTURE,
Washington, D. C., June 25, 1956.

Hon. JAMES E. MURRAY,
Chairman, Committee on Interior and Insular Affairs,
United States Senate.

Hon. DENNIS CHAVEZ,
Chairman, Committee on Public Works,
United States Senate.

DEAR SENATORS: This is in reply to your joint letter of June 13, 1956, requesting comments by this Department on Senate Resolution 281.

From the standpoint of the continued orderly administration of the watershed protection and flood prevention programs of this Department, we see no need for the resolution.

Following a preamble making reference to Bureau of the Budget circular A–47 and proposed revisions thereof and to the report of the Presidential Advisory Committee on Water Resources Policy, the resolution would declare the sense of the Senate to be that the Federal Government should continue to exercise all of its constitutional powers for conservation of land and water resources; that continued nullification by the executive agencies of this fundamental and long-established national policy would constitute a usurpation of the legislative power; that land and water resources development should be planned on comprehensive bases; that the number of Federal agencies, offices, and organizations having to do with the planning and review of land and water resources conservation and development projects should be reduced, rather than increased; that technical and administrative routing and review procedures should be simplified and shortened; that authorizing projects reports should include evaluations made in accordance with criteria prescribed by congressional committees and should fully disclose the results of all studies and analyses; and that preservation of the constitutional principle of separation of powers requires that any departure by the executive agencies from traditional policies, standards, procedures, and techniques reflected in and growing out of settled administration of organic law governing the conservation and development of land and water resources be effected only after full examination and consideration by the Congress.

In assisting local organizations in the preparation of plans for small watersheds in accordance with the provisions of the Watershed Protection and Flood Prevention Act (Public Law 566, 83d Cong.), the only Department program which the circular affects, this Department's procedures have been in conformance with the provisions of Bureau of the Budget circular A–47, referred to in the preamble to the resolution, and in general accord with the proposed revisions thereof.

That circular provides, among other things, that "The standards and procedures set forth in this circular shall not be regarded as authorizing any deviations from general or specific requirements of law. Whenever a report or budget estimate varies from such standards or procedures because of a requirement of existing law, the variation shall be indicated and reference made to the section of law imposing such a requirement." No instance has occurred to date in which the law has required such a variation in connection with a report that this Department has assisted in preparing under Public Law 566.

This Department's policies and procedures for administration of Public Law 566 also are in general accord with the policy recommendations of the Presidential Advisory Committee on Water Resources Policy.

It is our understanding that the Bureau of the Budget is submitting general comments on the resolution to you.

Sincerely yours,

TRUE D. MORSE, *Acting Secretary.*

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
Washington, D. C., July 5, 1956.

Hon. JAMES E. MURRAY,
Chairman, Committee on Interior and Insular Affairs.
Hon. DENNIS CHAVEZ,
Chairman, Committee on Public Works,
United States Senate.

DEAR MESSRS. CHAIRMEN: This letter is in response to your request for a report on Senate Resolution 281, relating to congressional and executitve branch policy on development of land and water resources and, in particular, the evaluation of proposed Federal projects for that purpose.

This Department does not have responsibility for the evaluation of Federal projects for the conservation and development of land and water resources. This Department's activity in the field of water resources is largely one of providing technical advice and assistance to the States, other Federal agencies, and the Congress on water quality to protect the public health and on water-pollution control. In addition, this Department engages in research in the water-pollution control field, and plays a part in enforcement of water-pollution abatement on interstate waters.

The bulk of the Department's advisory and consultative work in this field is carried on by the Public Health Service under the provisions of the Water Pollution Control Act (Public Law 945, 80th Cong., as amended). In state of the Union and health messages last year and this, President Eisenhower recommended legislation to the Congress to extend and strengthen the act. A bill, S. 890, to accomplish this purpose has been passed by the Congress and is now before the President.

In providing technical assistance to States and to the Federal agencies, this Department is frequently called upon to evaluate multiple-purpose water-resource projects from the point of view of water-pollution control, as well as insuring water of a quality that will pro-

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tect the public health, particularly through the adequacy of sustained flows. In doing this, there is need, especially in evaluating costs and benefits, for uniform procedures and policies among the Federal agencies of a type such as are now provided by Budget Bureau Circular A–47 and the coordinating procedures of the Inter-Agency Committee on Water Resources.

We believe that our interests in this field are being promoted on a sound basis by the administration's existing policies.

Time has not permitted us to obtain advice from the Bureau of the Budget in regard to this report.

Sincerely yours,

M. B. FOLSOM, *Secretary.*

FEDERAL POWER COMMISSION REPORT ON SENATE RESOLUTION 281, 84TH CONGRESS, A RESOLUTION RELATIVE TO THE CONSERVATION AND DEVELOPMENT OF LAND AND WATER RESOURCES

The resolution declares it to be the sense of the Senate that water-resource development continues to be a responsibility of the Federal Government and emphasizes the importance of carrying out comprehensive planning of land and water resources development in conformity with standards, procedures, and policies established by Congress for the analysis and evaluation of proposed Federal multiple-purpose projects.

The role of the Federal Power Commission with respect to water resources development is defined and limited by congressional enactments. The licensing function, which is the Commission's oldest activity, dates back to the Federal Water Power Act of 1920, now part I of the Federal Power Act. Pursuant to that authority, the Commission issues licenses to non-Federal interests, including citizens, corporations, States, and municipalities, authorizing the construction, operation, and maintenance of waterpower projects on Government lands and on streams over which the Congress has jurisdiction. It may also issue licenses to such non-Federal interests for the purpose of utilizing the surplus water or waterpower from a Government dam. Licenses issued under the Federal Power Act are for fixed periods not exceeding 50 years and contain terms which protect both the public interest and the licensee.

An important provision of the Power Act which safeguards overall Federal interests and insures initial consideration of Federal development is the requirement in section 10 (a) that each project to be licensed shall, in the judgment of the Commission, be best adapted to a comprehensive plan for the development and utilization of the water resources of the river basin for public purposes. Also, under section 7 (b), if, in the judgment of the Commission the "development of any water resources for public purposes" should be undertaken by the United States, the Commission is directed not to approve any application for "any project affecting such development." In such case, it must prepare certain data and submit its findings to Congress with recommendations concerning the proposed development.

Closely allied with the licensing activities are the Commission's studies and investigations of river basins and its power market surveys. Under the provisions of the Federal Power Act the Commis-

sion is given broad authority to make investigations and collect data concerning the utilization of our waterpower resources, and is authorized to cooperate with the executive departments and other agencies of the Federal Government and with State governments in such investigations. The Commission's investigatory authority was broadened by the Flood Control Act of 1938 and subsequent flood control and river and harbor acts, which provided that power penstocks shall be installed at dams therein authorized when approved by the Secretary of the Army upon recommendations of the Chief of Engineers and the Federal Power Commission.

These river basin and power market studies provide the basis for Commission action in the issuance of licenses, and also the basis for advising and making recommendations to the Federal constructing agencies on power matters. Cooperative arrangements have been established with the Corps of Engineers and with the Bureau of Reclamation for furnishing advice and assistance on power matters. This cooperation begins in the early planning stages between the staffs of the Commission's regional offices and the field representatives of the constructing agencies.

As a member of the Interagency Committee on Water Resources, which was formed by agreement with the Departments of the Army, Interior, Agriculture and Commerce, the Commission cooperates closely with Federal and State agencies in planning the power aspects of sounder and better designed river development programs. Through its participation in such a joint effort the Commission has made significant contributions toward achieving a better understanding and solution of the power phases of common problems involved in the standardization of practices for the economic analysis of river basin projects.

The Federal Power Commission is an independent agency having primarily licensing and investigatory functions under part I of the Federal Power Act with respect to non-Federal water power development and it has no direct statutory responsibility for reports by other agencies to Congress in support of requests for authorization of Federal projects. As will be apparent from the foregoing analysis, this is the only agency of the Federal Government having complete and continuing records and information on practically all segments of the power industry, publicly and privately owned, its capacity, operations, requirements, loads, locations and interconnections from which intelligent planning can be projected in accordance with the statutory directives of Congress. However, since the Commission's functions are limited and since Senate Resolution No. 281 involves essentially considerations of congressional policy pertaining to authorization of federally constructed projects, we prefer to express no opinion with respect to the advisability of adopting this Senate resolution.

FEDERAL POWER COMMISSION,
JEROME K. KUYKENDALL,
Chairman.

The text of the resolution, as amended, is as follows:

Whereas the Bureau of the Budget, on December 31, 1952, issued Circular Numbered A–47, prescribing standards, procedures, and policies for the evaluation of proposed Federal projects for land and water resources conservation and development; and

Whereas the Bureau of the Budget, on November 29, 1954, proposed a revision of Circular Numbered A–47, the application of which would impose further restriction by the executive agencies on Federal participation in the conservation and development of land and water resources, and on which hearings were held by the House Committee on Interior and Insular Affairs March 15 and March 30, 1955; and

Whereas on January 17, 1956, the President of the United States transmitted to the Congress the Report (House Document Numbered 315, Eighty-fourth Congress, second session) of the Presidential Advisory Committee on Water Resources Policy, consisting of the Secretary of Defense, the Secretary of the Interior, and the Secretary of Agriculture, designated by the President May 26, 1954, with a recommendation that "* * * the Congress give prompt attention to its proposals"; and

Whereas it is stated, at page 84 of the Economic Report of the President, transmitted to the Congress January 24, 1956, that "in due course, legislative proposals will be submitted to implement the recommendations" of the Presidential Advisory Committee on Water Resources Policy, but no such proposals have yet been submitted to the Congress and instead it is indicated that the recommendations may be implemented by direct action of the executive agencies;

Whereas notwithstanding that the conditions recited in this resolution result by reason of policies or actions under more than one national administration and by more than one branch and department of the Federal Government, it is desirable that this Congress initiate proper corrective action: Now, therefore, be it

Resolved, That it is the sense of the Senate that the stabilization of the national economy and the effectuation of the wisest, most orderly, and most economic utilization of the land and water resources of the Nation for the widest possible public benefit require that the Congress continue to exercise all of its constitutional powers to encourage the conservation and development of such resources to establish national policy pertaining thereto, and that any nullification by the executive agencies of this long-established principle would constitute a usurpation of the legislative power.

SEC. 2. That land and water resources development should be planned on comprehensive bases and with a view to such an ultimately integrated operation of component segments as will insure the realization of an optimum degree of physical and economic efficiency.

SEC. 3. That the number of Federal agencies, offices, and organizations having to do with the planning and review of projects for the conservation and development of land and water resources should be reduced, rather than increased, and that technical and administrative routing and review procedures should be simplified and shortened in order to facilitate and to accelerate the submittal of reports to the Congress in support of requests for the authorization of projects.

SEC. 4. That reports to the Congress in support of requests for the authorization of projects for the conservation and development of land and water resources should include evaluations made in accordance with criteria prescribed by the Congress, and that they should fully disclose the details and results of all studies and analyses of all potential utilizations, costs, allocations, payout, and benefits, both direct and indirect, made by all interested operating agencies.

SEC. 5. That the preservation of the constitutional principle of separation of powers requires that any departure by the executive agencies from the observance and employment of the policies, standards, procedures, and techniques reflected in and growing out of the law governing the conservation and development of the land and water resources of the Nation be effected only after approval by the Congress.

SEC. 6. That the Committee on Interior and Insular Affairs and the Committee on Public Works be, and they hereby are, directed jointly to study, in consultation with other appropriate committees and executive agencies, and to design and to formalize a comprehensive and particularized set of standards and overall criteria for the evaluation of all proposed projects for the conservation and development of land and water resources, including attention to the several specific factors recognized in section 4 of this resolution, all to the end that the Congress shall fully exercise its constitutional powers, as reflected throughout the text of this resolution. The Committee on Interior and Insular Affairs and the Committee on Public Works are hereby directed to submit to the Senate, as early as practicable during the first session of the Eighty-fifth Congress, a detailed report with respect to their implementation of this section.

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Calendar No. 2734

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2687

PROVIDING FOR A PRESIDENT'S ADVISORY COMMISSION ON PRESIDENTIAL OFFICE SPACE

JULY 20 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. CHAVEZ, from the Committee on Public Works, submitted the following

REPORT

[To accompany S. 4228]

The Committee on Public Works, to whom was referred the bill (S. 4228) to provide for a President's Advisory Commission on Presidential Office Space, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

The purpose of S. 4228 is to establish a commission composed of seven members to study the problem of providing more adequate office space for the White House office and the other agencies of the Executive Office of the President, and to report to the President within 6 months such findings and recommendations as deemed appropriate. The Commission would cease to exist 30 days after submission of its final report.

GENERAL STATEMENT

In the final report of the Commission on the Renovation of the Executive Mansion, it was recommended that a comprehensive study of the problem of suitable space and location for the office of the President be made to develop specific detailed recommendations. The recently completed renovation of the White House was undertaken as a necessity, without regard to any requirement or needs of the President's office, and such completion left other related problems of importance unsolved.

Until 1902, the Executive offices were maintained on the second floor of the White House, at which time they were removed to the temporary West Wing of the building.

During the past 50 years little has been done to provide executive space commensurate with the growth in importance and function of

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the President's office. The direct office facilities of the Chief Executive are not only insufficient but the entire arrangement of scattered offices and personnel is inconsistent with efficient and well-coordinated management of the executive branch of the Government.

Space for important uses such as conference rooms, filing of confidential and important letters and documents, Cabinet meetings, press conferences, and other purposes is entirely inadequate.

A general estimate of office space required for the Chief Executive and functions directly or very closely related to him, indicates an area of approximately 130,000 square feet is needed to house approximately 400 persons. This does not include the Bureau of the Budget, the Council of Economic Advisors, the National Security Council, Office of Defense Mobilization, and certain other agencies closely associated in their duties with the President's office. If such agencies as these were to be included, about 1,300 employees would be involved.

The problem is one of magnitude and importance. A structure adequate to meet the needs could not be provided on the White House grounds without great detriment to the beauty of the building and its surroundings. The space that might be evacuated if the office functions were removed from the grounds could very properly be integrated into direct use with the White House itself.

The committee is of the opinion that the study could be most effectively made by the Commission established by S. 4228, in order that proper coordination can be effected between the executive and legislative branches, and recommends enactment of this legislation.

The letter from the President recommending this legislation is as follows:

THE WHITE HOUSE,
Washington, June 27, 1956.

Hon. RICHARD M. NIXON,
President of the Senate,
Washington 25, D. C.

DEAR MR. PRESIDENT: I am submitting herewith for consideration of the Congress a draft bill to provide for the establishment of a President's Advisory Commission on Presidential Office Space. The purpose of this Commission will be to study the problem of providing more adequate office space for the White House office and the other agencies of the Executive Office of the President and report to me appropriate findings and recommendations.

I have been concerned for some time over the lack of adequate office facilities for the White House staff and the other agencies of the Executive Office of the President. Studies have been made to alleviate current overcrowding in the White House offices and to provide a basis for a more permanent solution to the problem. It seems to me, however, that our consideration of this important problem and the development of appropriate action toward its solution would benefit greatly from an advisory group composed of seven members as follows: two Senators appointed by the President of the Senate, two Representatives appointed by the Speaker of the House of Representatives, and three persons appointed by the President from the executive branch or from private life.

This Commission will, in effect, complement the work of the earlier Commission for the Renovation of the Executive Mansion which was

concerned with the reconstruction of the White House itself (Public Law 40, 81st Cong., 1st sess.). The proposed Commission would be concerned with the development of recommendations for suitable space and location of the Presidential offices.

Because the problem is so acute and its solution will require a substantial amount of time, I strongly urge that this proposed legislation be acted upon before the close of the present session of Congress.

Sincerely,

DWIGHT D. EISENHOWER.

A BILL To provide for a President's Advisory Commission on Presidential Office Space

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby established a commission to be known as the President's Advisory Commission on Presidential Office Space (hereinafter referred to as the "Commission"). It shall be the duty of the Commission (a) to study the problem of providing more adequate office space for the White House Office and the other agencies of the Executive Office of the President, and (b) within six months after the approval of this act, to report to the President such findings and recommendations as it deems appropriate.

SEC. 2. (a) The Commission shall be composed of seven members as follows:

(1) Two Senators appointed by the President of the Senate;

(2) Two Representatives appointed by the Speaker of the House of Representatives;

(3) Three persons appointed by the President of the United States from the executive branch or from private life.

(b) A vacancy in the Commission shall not affect its powers but shall be filled in the same manner as the original appointment was made.

(c) The Commission shall elect a Chairman and a Vice Chairman from among its members.

(d) Commission members appointed from the Congress and the executive branch shall serve without additional compensation. Commission members appointed from private life shall receive $50 per diem when engaged in the performance of Commission duties. All Commission members shall receive reimbursement for necessary traveling and subsistence expenses incurred by them in the performance of Commission duties.

(e) Within the limits of its appropriations, the Commission is authorized to appoint such personnel, without regard to the civil-service laws and the Classification Act of 1923, as amended, and to make such expenditures as, in its discretion, it deems necessary.

(f) The Commission is authorized to request and secure the advice or assistance of any Federal agency. Any Federal agency furnishing advice or assistance to the Commission may expend its own funds for this purpose, with or without reimbursement from the Commission, as may be agreed upon between the Commission and the agency.

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(g) Thirty days after the submission of its final report the Commission shall cease to exist.

SEC. 3. Appropriations to the President for "Expenses of management improvement" shall be available for necessary expenses of the Commission, and there are hereby authorized to be appropriated such additional sums as may be necessary for such expenses.

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Calendar No. 2735

84TH CONGRESS, 2d Session } SENATE { REPORT No. 2688

RELATING TO THE USE OF STORAGE SPACE IN THE HULAH RESERVOIR TO PROVIDE WATER FOR THE CITY OF BARTLESVILLE, OKLA.

JULY 20 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. CHAVEZ, from the Committee on Public Works, submitted the following

REPORT

[To accompany H. R. 8940]

The Committee on Public Works, to whom was referred the bill (H. R. 8940) relating to the use of storage space in the Hulah Reservoir to provide water for the city of Bartlesville, Okla., having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H. R. 8940 is to authorize the Secretary of the Army to contract with the city of Bartlesville, Okla., for a period not exceeding 50 years upon such terms as he may deem reasonable for the use of not to exceed 15,400 acre-feet of storage space in the Hulah Reservoir to provide the city with a regulated water supply. The bill would amend the authorizing act accordingly. Water rights under State law would not be affected, and moneys received shall be deposited in the Treasury of the United States.

GENERAL STATEMENT

The Hulah Dam is located on Caney River, 96 miles above its confluence with the Verdigris River, and about 15 miles northwest of Bartlesville, near Hulah, Osage County, Okla.

The Flood Control Act of June 22, 1936, authorized construction of the Hulah Reservoir, contained in House Document 308, 74th Congress, 1st session, for flood control in the Verdigris River Valley in Oklahoma and for water-supply purposes. Construction of the Hulah Reservoir was started in 1946 and the reservoir was placed in operation in 1951. The total cost is $10,898,000.

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Representatives of the Department of the Army informed the committee that in previous correspondence between officials of Bartlesville and the Corps of Engineers, it was determined that the city required 15,400 acre-feet of storage space to yield 10,800 acre-feet of water annually, of which 5,000 acre-feet would be withdrawn at the reservoir and 5,800 acre-feet would be withdrawn from the Caney River at Bartlesville. There are 295,000 acre-feet of storage in Hulah Reservoir presently allocated as follows: 265,000, flood control; 17,000, conservation; and 13,000 for sedimentation reserve. The committee was advised that Corps of Engineers' studies indicate that 15,400 acre-feet of storage could be provided for Bartlesville which would not materially infringe upon presently authorized project purposes. A revised allocation of storage, submitted by the engineers, would be about as follows: 258,000 acre-feet, flood control; 15,400 for Bartlesville water supply; 11,200, conservation; and 10,400, sedimentation reserve. However, the Department of the Army cannot legally enter into a contract with the city pursuant to section 6 of the 1944 Flood Control Act (58 Stat. 890), as reenacted by Public Law 360 of the 82d Congress (66 Stat. 93), since that section applies only to "surplus" water, whereas there actually is no "surplus" water in the reservoir. Accordingly, enactment of legislation is necessary if water is to be supplied to Bartlesville from the Hulah Reservoir.

The committee considers the matter of water supply to be one of the most important functions of the civil-works program, and that all reservoirs constructed for river control must include storage for water supply to assure appropriate low-flow regulation for the benefit of communities and areas downstream therefrom.

Enactment of the bill would not result in any increased costs to the United States.

The Department of the Army informed the committee it has no objection to the enactment of H. R. 8940. The committee recommends approval by the Congress.

O

Calendar No. 2736

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2689

RELATING TO USE OF STORAGE SPACE IN THE BUFORD RESERVOIR FOR THE PURPOSE OF PROVIDING GWINNETT COUNTY, GA., A REGULATED WATER SUPPLY

JULY 20 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. CHAVEZ, from the Committee on Public Works, submitted the following

REPORT

[To accompany H. R. 8265]

The Committee on Public Works, to whom was referred the bill (H. R. 8265) relating to the use of storage space in the Buford Reservoir for the purpose of providing Gwinnett County, Ga., a regulated water supply, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H. R. 8265 is to authorize the Secretary of the Army to contract with Gwinett County, Ga., for a period not to exceed 50 years, upon such terms as he may deem reasonable, for the use of storage space in the Buford Reservoir to provide the county a regulated water supply in an amount not to exceed 11,200 acre-feet of water annually. The bill provides further for an easement, at no cost, over Government lands at Buford Reservoir for the purpose of constructing, repairing, and maintaining necessary pipelines and pumping stations to remove such water from the reservoir, and amends the authorizing act accordingly.

GENERAL STATEMENT

The River and Harbor Act of July 24, 1946 (60 Stat. 634), approved modification of the general plan for full development of the Apalachicola, Chattahoochee, and Flint River systems, and authorized for the initiation and partial accomplishment thereof the construction of Buford multipurpose reservoir and other related developments in accordance with House Document No. 300, 80th Congress, 1st session.

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Buford Dam and Reservoir (designated as Lake Sidney Lanier by Public Law 457, 84th Cong.) is located on the Chattahoochee River about 348.5 miles above its mouth, 50 miles above Atlanta, and 5 miles northwest of the town of Buford, Ga. The reservoir extends extends about 47 miles upstream along the Chattahoochee River, and about 21 miles up the Chestatee River, which enters the Chattahoochee River 14.5 miles above the dam.

The reservoir will have a gross capacity of 2,554,000 acre-feet, of which 637,000 acre-feet will be reserved for flood control and 1,049,000 acre-feet will be used for development of hydroelectric power, with a power installation of 86,000 kilowatts. The Buford project is presently under construction and is about 60 percent complete. The estimated cost is $39,200,000. The use of storage space in the reservoir for furnishing water to Gwinnett County would not interfere substantially with the primary purposes of the project. However, the Department of the Army cannot legally enter into a contract with the county pursuant to section 6 of the 1944 Flood Control Act (58 Stat. 890), as reenacted by Public Law 360 of the 82d Congress (66 Stat. 93), since that section applies only to surplus water, whereas there actually will be no surplus water in the reservoir. Accordingly, enactment of legislation is necessary if water is to be supplied to Gwinnett County from the Buford Reservoir.

Representatives of the Department of the Army advise that in negotiations between Gwinnett County officials and the Corps of Engineers, it had been indicated that initial withdrawals would be about 4 million gallons per day and ultimate withdrawals would be about 10 million gallons per day. At the rate of 10 million gallons per day, storage in an amount to provide a total of 11,200 acre-feet of water annually would be required.

Enactment of this legislation would not result in any increased costs nor in any losses to the United States.

The Department of the Army advised that it had no objection to enactment of H. R. 8265.

The committee understands that the county has under construction facilities which will require water from the Buford Reservoir in February 1957, and, therefore, recommends approval of this legislation.

O

Calendar No. 2737

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2690

GARZA-LITTLE ELM PROJECT—CONVEYANCE OF LAND TO CITY OF LEWISVILLE, TEX.

JULY 20 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. CHAVEZ, from the Committee on Public Works, submitted the following

REPORT

[To accompany H. R. 10423]

The Committee on Public Works, to whom was referred the bill (H. R. 10423) to provide for the conveyance of 18.18 acres of land within the Garza-Little Elm project to the city of Lewisville, Tex., for sewage disposal purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of the bill is to authorize and direct the Secretary of the Army to convey to the city of Lewisville, Tex., a portion of tracts A–9 and A–27 within the Garza-Little Elm project, but not to exceed 18.18 acres, required by the city for the construction of its sewage-treatment plant, the conveyance to be by quitclaim deed at the reasonable market value therefor and subject to such reservations, including flowage easements, restrictions, terms, and conditions as the Secretary of the Army determines to be necessary in the interest of the United States.

GENERAL STATEMENT

The Garza-Little Elm Dam and Reservoir (designation changed to the Lewisville Dam by Public Law 329, 84th Cong.) is located in Denton County, Tex., on Elm Fork of Trinity River, 30 miles above its confluence with Trinity River and about 22 miles northwest of Dallas, Tex.

The plan of improvement is a unit of the comprehensive plan for flood control in the Trinity River Basin. It consists of an earth-fill dam and a reservoir having a storage capacity of 526,700 acre-feet for flood control, 436,000 acre-feet for conservation, a sedimentation reserve of 53,500 acre-feet, a total of 1,016,200 acre-feet. The project

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was authorized by the River and Harbor Act of 1945, and was completed in 1954 at a cost of $22,100,000.

The parcel of land referred to in the bill is a portion of two tracts of land purchased by the Department of the Army in 1949 for the Garza-Little Elm project. The parcel contains 18.18 acres and was acquired at a cost of $1,454. It is situated approximately 2,000 feet from the city's existing plant which is inadequate to meet current and foreseeable needs. The city has recently completed a study of engineering plans for the improvement of its sewage-treatment system and has adopted a plan which involves the use of the 18.18 acres as a site on which to construct new facilities which will meet its expanding needs and design requirements of the Texas Department of Health.

The Department of the Army advises that the 18.18 acres are not required for project purposes and the use of the land for the construction and operation of a sewage treatment plant will not adversely affect the maintenance and operation of the Garza-Little Elm Reservoir project. Representatives of the Department advised that minor flooding of the area will occur as a result of flood control releases through the outlet works, thereby necessitating the construction of a low levee to protect portions of the sewage treatment plant. They suggested that the construction of such a levee should be made a condition of any conveyance of title to the land for use for these purposes, and stated that the provisions of H. R. 10423 are deemed adequate in this respect.

No expenditure of Federal funds would be required by reason of conveyance of this land to the city of Lewisville, and advice has been received that the Department of the Army at a public hearing that it has no objection to the enactment of this legislation. The committee recommends favorable action by the Congress.

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Calendar No. 2738

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2691

AMENDING THE ACT AUTHORIZING FEDERAL PARTICIPATION IN THE COST OF PROTECTING THE SHORES OR PUBLICLY OWNED PROPERTY

JULY 20 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. CHAVEZ, from the Committee on Public Works, submitted the following

REPORT

[To accompany H. R. 11861]

The Committee on Public Works, to whom was referred the bill (H. R. 11861) to amend the act entitled "An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property," approved August 13, 1946, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of the bill is to extend the policy of Federal participation in the construction of shore-protection measures to shores of privately owned proerty under certain circumstances, as well as the shores of publicly owned property. The bill would also clarify existing policy, modify that policy with respect to periodic placement of sandfills, and eliminate the presently unnecessary seawall proviso.

DISCUSSION

The committee notes that erosion of the shores of oceans, lakes, estuaries, and bays constitutes a loss of land which is an important natural resource of the United States. Existing Federal policy is to provide assistance in the prevention of such loss only in the case of shores owned by public agencies. The proposed bill would provide a limited extension of this policy to shores of privately owned property where there is a benefit arising from public use or from protection of nearby public property or if the benefits to those shores are incidental to a project for protecting publicly owned shores.

Extension of the policy to include the shores of Territories and possessions as well as shores of the United States is desirable and is consistent with previous congressional action in approving a beach-

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erosion-control project involving Federal assistance in the case of Waikiki Beach, Oahu, T. H.

The definition of "periodic beach nourishment" under the term "construction" rather than under "maintenance" is desirable, since that type of protection, although requiring work over a period of years, is frequently the most suitable and economical remedial measure in the long run. Consideration of the work, after the initial placement, as maintenance, and thus ineligible for Federal assistance under present law, often places the most economical and desirable plan at a disadvantage, from the viewpoint of local cooperating agencies, compared with other types of protection having high initial costs but low maintenance costs. The length of time that subsequent operations would be federally assisted under the reported bill would be limited by specification of the Chief of Engineers in recommending a project.

H. R. 11861 would substitute "restoration" for "improvement" as the purpose of works to be eligible for Federal assistance. This change is desirable, as the committee believes that the intent is to restore lost lands rather than to create new lands.

The elimination of the seawall proviso, which expressed a policy of Federal aid toward the repair and protection of seawalls constructed by political subdivisions to protect important public highways is desirable. This proviso has been of extremely limited value or use, and the reported bill provides an adequate and more equitable basis for Federal aid without the proviso.

The committee held public hearings on this legislation on July 18, 1956. Testimony was presented by Members of Congress and representatives of the Chief of Engineers. The committee is of the opinion that under certain conditions it would be in the public interest to protect private property and provide for periodic beach nourishment for a length of time specified by the Corps of Engineers.

After very careful consideration of this measure, the committee is convinced that its provisions will prove to be a valuable addition to existing beach-erosion-control law, and therefore recommends early enactment by the Congress.

The comments of the Bureau of the Budget and the Department of the Army on S. 3551, a similar bill, are as follows:

DEPARTMENT OF THE ARMY,
May 22, 1956.

Hon. DENNIS CHAVEZ,
Chairman, Committee on Public Works,
United States Senate.

DEAR MR. CHAIRMAN: Reference is made to your request for the views of the Department of the Army with respect to S. 3551, 84th Congress, a bill to amend the act entitled "An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property," approved August 13, 1946.

The Department of the Army has considered the above-mentioned bill which provides for amendments to the act of August 13, 1946 (60 Stat. 1056), pertaining to shore protection. The proposed amendments to existing law and the views of the Department of the Army, including certain suggested changes, are set forth more specifically below.

Section 1 of the act of 1946 declared it to be the policy of the United States, with the purpose of preventing damage to public prop-

erty and promoting and encouraging the healthful recreation of the people, to assist in the construction, but not the maintenance, of works for the improvement and protection against erosion by waves and currents of the shores of the United States that are owned by States, municipalities, or other political subdivisions, subject to certain stipulations, including provisos that the Federal contribution toward the construction of protective works shall not in any case exceed one-third of the total cost and that the plan of protection shall have been specifically adopted and authorized by Congress after investigation and study by the Beach Erosion Board.

S. 3551 would amend the basic policy in the 1946 act by extending Federal assistance to restoration and protection of privately owned shores. While the Department of the Army, based on experience to date, considers that it would be in the public interest to protect private property in certain cases, it is suggested that the law specifically define the conditions under which Federal assistance toward such protection would be provided. The following criteria are suggested for specification in the law:

1. (*a*) The shores must be available, accessible, and suitable for public use, and satisfactory assurances must be given that they will remain in public use throughout the useful life of the project; or

(*b*) The privately owned shores must serve to protect adjoining publicly owned property under conditions which make it economically advantageous to preserve the privately owned shore in order to prevent imminent damage to public property; or

(*c*) The privately owned shores are so situated as to receive incidental benefit from the project at no added cost;

2. Except where private benefits are entirely incidental, the Federal contribution toward the cost should be reduced below the maximum permitted by law in the ratio that estimated private benefits bear to estimated total benefits.

Section 1 (a) (1) of S. 3551 would change the language of the act of 1946 from "* * * assist in the construction * * *" to "* * * assist in paying the cost of projects, initiated by States or political subdivisions thereof, for the construction * * *." The purpose of this change in language is not clear, but it may be intended to make eligible for Federal reimbursement, works which were planned and accomplished entirely as local projects without prior aid of a cooperative study by the Beach Erosion Board created by the act of July 3, 1930 (46 Stat. 945). Any change in the law which would permit such an interpretation is believed to be undesirable. Such local works, mostly unsuccessful, have probably cost in the aggregate many millions of dollars. Technical and economic evaluation of the worth of such works would be difficult and controversial, and establishment now of such a retroactive policy would be without precedent in Federal public works.

Section 1 (a) of S. 3551 would amend the provision in the act of 1946 which authorizes Federal aid toward the repair and protection of seawalls heretofore constructed by political subdivisions to protect important public highways. The amendment proposed would provide Federal aid additionally to seawalls hereafter constructed, and would further make possible retroactive reimbursement for previous repairs and improvements of such seawalls by local interests. The Department of the Army believes that studies by the Beach Erosion Board

provide a means for securing appropriate Federal aid for any shore-protection measures hereafter required. The Department does not favor any general provision of law which would provide retroactive reimbursement for works constructed without benefit of a prior study by the Board. It is believed that the seawall proviso in the 1946 act provides unwarranted special consideration for shores which have been protected by seawalls as compared with shores protected by other means, and that a more equitable basis for Federal aid would be established by deletion rather than amendment of the seawall proviso.

Section 1 (c) of S. 3551 may be construed to authorize Federal studies of seawall-protected shores without the customary requirement for a local contribution toward the cost of the study. It is believed that seawall studies should meet the same conditions of local cooperation as other cooperative beach-erosion studies. Section 1 (c) would thus be unnecessary.

The Department of the Army offers no objection to the enactment of S. 3551 if revised in accordance with the foregoing comments. However, the Department is of the opinion that certain additional modifications of existing law pertaining to shore protection would be advisable in the public interest. These modifications concern Federal assistance toward periodic beach nourishment, and the exclusion from the limitation of Federal assistance of those remedial measures necessitated by coastal works owned by the United States and constructed or acquired specifically for purposes of the Armed Forces. Since the Bureau of the Budget is of the opinion that such modifications are not germane to the introduced bills, consideration is being given to the submission of those additional provisions as a separate legislative proposal.

This Department has no information as to the fiscal effect of enactment of the bill.

The Bureau of the Budget advised that there would be no objection to the submission of a similar report on a companion bill, H. R. 4470.

Sincerely yours,

WILBER M. BRUCKER,
Secretary of the Army.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
June 18, 1956.

Hon. DENNIS CHAVEZ,
Chairman, Committee on Public Works,
United States Senate.

MY DEAR MR. CHAIRMAN: This will acknowledge your request for the views of the Bureau of the Budget on S. 3551, to amend the act entitled "An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property," approved August 13, 1946.

The Bureau of the Budget concurs in the recommendations of the Secretary of the Army for amendment of the bill contained in his letter to you of May 22, 1956. Accordingly, if amended as recommended by the Secretary of the Army, the Bureau of the Budget would have no objection to the enactment of S. 3551.

Sincerely yours,

ROBERT E. MERRIAM,
Assistant to the Director.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate changes in existing law proposed by this bill are shown in parallel columns as follows:

EXISTING LAW

(Public Law 727, 79th Cong., authorizing Federal participation in the cost of protecting the shores of publicly owned property)

That with the purpose of preventing damage to public property and promoting and encouraging the healthful recreation of the people, it is hereby declared to be the policy of the United States to assist in the construction, but not the maintenance, of works for the improvement and protection against erosion by waves and currents of the shores of the United States that are owned by States, municipalities, or other political subdivisions: *Provided*, That the Federal contribution toward the construction of protective works shall not in any case exceed one-third of the total cost: *Provided further*, That where a political subdivision has heretofore erected a seawall to prevent erosion, by waves and currents, to a public highway considered by the Chief of Engineers sufficiently important to justify protection, Federal contribution toward the repair of such wall and the protection thereof by the building of an artificial beach is authorized at not to exceed one-third of the original cost of such wall, and that investigations and studies hereinafter provided for are hereby authorized for such localities: *Provided further*, That the plan of protection shall have been specifically adopted and authorized by Congress after investigation and study by the Beach Erosion Board under the provisions of section 2 of the River and Harbor Act approved July 3, 1930, as amended and supplemented.

NEW LANGUAGE

That (a) with the purpose of preventing damage to the shores of the United States, its Territories and possessions and promoting and encouraging the healthful recreation of the people, it is hereby declared to be the policy of the United States, subject to the following provisions of this Act to assist in the construction, but not the maintenance, of works for the restoration and protection against erosion, by waves and currents, of the shores of the United States, its Territories and possessions.

(b) The Federal contribution in the case of any project referred to in subsection (a) shall not exceed one-third of the cost of the project, and the remainder shall be paid by the State, municipality, or other political subdivision in which the project is located.

(c) When in the opinion of the Chief of Engineers the most suitable and economical remedial measures would be provided by periodic beach nourishment, the term "construction" may be construed for the purposes of this Act to include the deposit of sand fill at suitable intervals of time to furnish sand supply to project shores for a length of time specified by the Chief of Engineers.

(d) Shores other than public shall be eligible for Federal assistance if there is benefit such as that arising from public use or from the protection of nearby public property or if the benefits to those shores are incidental to the project, and the Federal contribution to the project shall be adjusted in accordance with the degree of such benefits.

EXISTING LAW

NEW LANGUAGE

(e) No Federal contribution shall be made with respect to a project under this Act unless the plan therefor shall have been specifically adopted and authorized by Congress after investigation and study by the Beach Erosion Board under the provisions of section 2 of the River and Harbor Act approved July 3, 1930, as amended and supplemented.

SEC. 2. When the Chief of Engineers shall find that any such project has been constructed in accordance with the authorized plans and specifications he shall cause to be paid to the State, municipality, or political subdivision the amount authorized by Congress.

SEC. 2. When the Chief of Engineers shall find that any such project has been constructed in accordance with the authorized plans and specifications he shall cause to be paid to the State, municipality, or other political subdivision involved the amount authorized by Congress.

SEC. 3. The Chief of Engineers may in his discretion, from time to time, make payments on such construction as the work progresses, but these payments, including previous payments, if any, shall not be more than the United States pro rata part of the value of the labor and materials which have been actually put into such construction in conformity to said plans and specifications: *Provided*, That the construction of improvement and protective works may be undertaken by the Chief of Engineers upon the request of, and contribution of required funds by, the interested State, municipality or other political subdivision.

SEC. 3. The Chief of Engineers may, in his discretion, from time to time, make payments on such construction as the work progresses, but these payments, including previous payments, if any, shall not be more than the United States pro rata part of the value of the labor and materials which have been actually put into such construction in conformity to said plans and specifications: *Provided*, That the construction of restoration and protective works under this Act may be undertaken by the Chief of Engineers upon the request of, and contribution of required funds by, the interested State, municipality, or other political subdivision.

SEC. 4. As used in this Act, the word "shores" includes all the shore lines of the Atlantic and Pacific Oceans, the Gulf of Mexico, the Great Lakes, and lakes, estuaries and bays directly connected therewith.

SEC. 4. As used in this Act, the word "shores" includes all the shorelines of the Atlantic and Pacific Oceans, the Gulf of Mexico, the Great Lakes, and lakes, estuaries, and bays directly connected therewith.

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Calendar No. 2739

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2692

BUILDING FOR THE UNITED STATES COURT OF CLAIMS

JULY 20 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. CHAVEZ, from the Committee on Public Works, submitted the following

REPORT

[To accompany S. 3445]

The Committee on Public Works, to whom was referred the bill (S. 3445) to provide for the construction, equipment, and furnishing of a building for the United States Court of Claims, and for other purposes, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is to strike out all after the enacting clause, and insert in lieu thereof an amendment in the nature of a substitute.

PURPOSE

The purpose of the bill as amended is to authorize and direct the Architect of the Capitol to construct, equip, and furnish, in square 167 in the District of Columbia, a building for the use of the United States Court of Claims, at a cost of not to exceed $3,500,000, and to authorize removal of the court and its equipment and property from its present building into the new building.

GENERAL STATEMENT

The building now occupied by the United States Court of Claims on lot 800 at the corner of 17th Street and Pennsylvania Avenue NW., was erected in 1859, and has been used since that time by various agencies. It has been occupied by the court since 1899. The present quarters consist of a main two-story building and basement structure with wooden framing and roof, and a small annex building in the rear. The sandstone which forms the exterior of the building is deteriorating very rapidly, and the roof and roof trusses are in a bad state of repair.

The character and arrangement of the building is not adaptable for efficient layout for use as a courthouse nor for the needs and requirements of the court, nor commensurate with the dignity and importance

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of the court. Although the interior of the building has been remodeled to the extent feasible, almost 50 percent of the space is taken up with corridors, stairways, and high ceilings not usable for other purposes. Due to this excessive loss of space and other physical characteristics of the building, further expansion to meet the needs and requirements of the court is not possible in its present quarters. In addition, the fire hazard in this building and to adjacent buildings is very great.

The space requirements of the court have outgrown the present building. The jurisdiction of the Court of Claims has been enlarged from time to time since its establishment and its workload has increased tremendously throughout the years.

The Court of Claims should continue to be provided with a separate building for its own use, rather than to be placed in a building occupied by other departments or establishments of the Government. Litigants in the Court of Claims are the citizens and resident aliens of the United States. The United States is the defendant in every case. This means that in suits instituted in the Court of Claims every department, bureau, establishment, and agency of the United States are, at one time or another, concerned, and are, in fact, the real defendants. The Department of Justice appears in every case on behalf of the States and the various departments and agencies. For these reasons it is believed that the court should be located near the executive agencies where they would have ready access to files and personnel of such agencies, and near the city for the convenience of out-of-town lawyers and others appearing before the court.

HEARINGS

The committee held hearings for 2 days on this bill. The chief judge of the Court of Claims discussed the inadequacy of space in the present building, and the fire hazards that exist. He stated that since the court works almost exclusively with the exectuive branch, they would prefer to be located near their present building, and in close proximity to that branch. Representatives of the Commission of Fine Arts and the National Capital Planning Commission voiced their objections to a court building in square 167, stating that the court should be located in the vicinity of Judiciary Square or of the Supreme Court. The opinion was expressed that square 167 should be reserved for possible future use of the Executive offices.

DISCUSSION

The committee gave careful consideration to the evidence presented at the hearings. It recognizes the need for additional space and facilities for the Court of Claims, and also the functions of the court and its relations with the executive branch of the Government.

At the request of the committee, the chief judge of the court met with representatives of the Commission of Fine Arts and the National Capital Planning Commission in an attempt to reach an agreement as to a possible location for the new court building. At this conference, a site in square 758 near the Supreme Court Building was determined to be satisfactory, although the chief judge still stated his preference for a location in square 167 near the present building. The Architect of the Capitol estimated the cost of the proposed site in square 758 as $1,500,000.

The Federal Government owns almost all of square 167 on which the present building is located. The lots at the corner of 17th and H Streets NW., immediately behind the present court building comprising about 17,000 square feet, are federally owned and could be used for the proposed court building.

It was stated by the Architect of the Capitol that a building could be designed and constructed on this site that could later be incorporated into any additional building constructed on all or part of square 167, if so desired.

The committee believes that construction of a new building for the United States Court of Claims is highly desirable and completely justified. The present inadequate space and arrangement and the fire hazard in the existing building cannot be too strongly emphasized.

The committee considers the Court of Claims in an entirely different category than the other Federal courts. Its work is with the executive branch and no necessity is seen for its location near any of the other courts.

The United States now owns extensive areas in the District of Columbia suitable for building sites, including the four lots at the corner of 17th and H Streets. The committee believes this site is satisfactory and desirable for the proposed court building. It does not feel justified nor see the necessity of acquiring a new site for this purpose at an estimated cost of $1,500,000, and the removal of that real property from the tax rolls of the District of Columbia.

The committee is not unmindful of the need for additional space, for the Executive offices, in fact it has recently considered legislation creating a commission to study that problem. Much of square 167 is now federally owned. If an additional office building for the Executive offices should be constructed on this square, it is believed that the new court building could be incorporated therein without difficulty.

The original bill provided for demolition of the existing court building and construction of a new building on the same site. The committee recommends an amendment to the bill in the nature of a substitute, providing for construction of a building on lots 805, 806, 807, and 808 of square 167, in accordance with plans to be prepared by the Architect of the Capitol and approved by the chief judge of the United States Court of Claims, the continued occupancy of the present building and subsequent moving to the new building, transfer of necessary lands to the Architect of the Capitol, and transfer of the existing building to the General Services Administration when vacated.

In view of the prominent location of the proposed building, the committee believes that the exterior design of the new building should be subject to approval of the Commission of Fine Arts.

Since it is estimated that approximately 2 years will be required for construction of the new building, immediate action on this legislation is recommended.

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Comments of the Federal agencies on the original bill are as follows:

UNITED STATES COURT OF CLAIMS,
Washington, D. C., March 19, 1956.

Hon. DENNIS CHAVEZ,
Chairman, Committee on Public Works,
United States Senate, Washington, D. C.

DEAR MR. CHAIRMAN: Replying to your inquiry in reference to S. 3445, a bill to provide for the construction, equipment, and furnishing of a building for the United States Court of Claims:

The problem is primarily a physical one with both the need for additional space and the condition of the present structure constituting important factors for consideration. As is generally known, the present building is 97 years old and while interior alterations have been made on occasion, the fundamental structural features remain as they were in the original construction. The roof, for instance, is supported by hand-hewn timbers, which, after nearly 100 years, have become dry and brittle. In this and in other respects the building is a fire hazard and has been so described by the former Architect of the Capitol, Mr. David Lynn. Invaluable records would be lost if a serious fire should occur. The heating and plumbing lines are very old and require frequent and expensive repairs. Washroom facilities are inadequate.

The ancient sandstone which forms the exterior of the building is deteriorating at an alarming rate. Chunks of the stone have fallen on several occasions and this constitutes a hazard to pedestrians and to persons entering or leaving the building.

The growing space requirements of the court are well known as are the limitations of the present building. It has been necessary to place a portion of the library and the offices of two of the commissioners in basement rooms. The remainder of the library is in scattered rooms about the building.

With approximately 5,400 cases pending in the court, filing space is at a premium and there is no room for expansion. Expressed in terms of cubic feet, inactive storage, and printed material occupy 1,232 cubic feet. Active files require 1,488 cubic feet, plus twenty-eight 4-drawer metal file cabinets.

On previous occasions the possibility of solving the space problem by construction of an addition and remodeling the present structure has been discussed. When the question of remodeling and enlarging the old building was presented the Subcommittee on Appropriations took the position that any major expenditure on a building as old as this one would not be justified. The report of the House Committee on Appropriations made in connection with the legislative-judiciary appropriation bill of 1954 contained this statement:

The only significant change the committee made from either the 1953 level of appropriations or from the budget estimates was the disallowance of $233,300 of the request for $248,900 to repair and improve the Court of Claims Building. The building is about 100 years old. The committee is of the belief that a more permanent solution to the housing problem of this court should be sought than attempting to improve this very old structure.

When the court first occupied the present building in 1899 it was more than adequate for its needs. But the expanded activities of the National Government and the consequent increased litigation, as well as the condition of the present quarters make a new building very much needed.

Sincerely yours,

MARVIN JONES, *Chief Judge.*

THE COMMISSION OF FINE ARTS,
April 10, 1956.

Hon. DENNIS CHAVEZ,
Chairman, Senate Committee on Public Works,
412 Senate Office Building, Washington, D. C.

DEAR SENATOR CHAVEZ: Your letter of March 15, 1956, requested the suggestions of the Commission of Fine Arts with respect to S. 3445, 84th Congress, a bill to provide for the construction, equipment, and furnishing of a building for the United States Court of Claims, and for other purposes.

At a meeting on April 5, 1956, the members of the Commission considered the provisions of S. 3445, and it was agreed to recommend that S. 3445 not be enacted in its present form. We would be happy to see the United States Court of Claims appropriately housed elsewhere in a new building designed for the court's specific use, and, if such a building is authorized, we will gladly assist in advising the architects on the exterior design. We believe that land in the area now occupied should be reserved for the expansion of the executive branch of the Government and that relocation of the Court of Claims in a new building in the vicinity of the Supreme Court or Judiciary Square will contribute to the orderly development of the plan of Washington. We hope, therefore, that S. 3445 will be reconsidered and a site selected that will conform with the long-range plans for the city.

The Bureau of the Budget has advised that there is no objection to the submission of this report to your committee.

For the Commission of Fine Arts:

Sincerely yours,

DAVID E. FINLEY, *Chairman.*

NATIONAL CAPITAL PLANNING COMMISSION,
April 23, 1956.

Hon. DENNIS CHAVEZ,
Chairman, Committee on Public Works,
United States Senate, Washington, D. C.

DEAR SENATOR CHAVEZ: In accordance with your request of March 15, the National Capital Planning Commission has been pleased to consider S. 3445, to provide for the construction, equipment, and furnishing of a building for the United States Court of Claims, and for other purposes, and offers the following suggestions and comments on the merits of the bill and the propriety of its passage.

The bill authorizes and directs the Architect of the Capitol to remove the present United States Court of Claims building located at

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the northeast corner of 17th Street and Pennsylvania Avenue NW., and to construct a new court building on the same site. The basic question concerning this Commission would therefore seem to be whether the proposal conforms with the Commission's plans for this area and the appropriateness of this location for this particular agency of the Government.

On several previous occasions consideration has been given to the desirability of grouping the various Federal courts not now provided for in a single area or location for the purposes of economical administration and general convenience. The two locations most preferred have been either in the vicinity of Judiciary Square or of the Supreme Court.

One of the primary functions of the National Capital Planning Commission is to prepare and maintain a comprehensive plan for the development of the central area of Washington, embracing its proposals for the location and arrangement of public buildings to house the various needs of the Government. A key feature of this plan for many years has been the eventual inclusion of the entire square on the west side of Lafayette Park between Jackson Place and 17th Street within the area to be acquired and developed for public purposes. Consistent with this recommendation, the Congress approved on April 5, 1941, appropriations for the acquisition of the westerly portion of this square and subsequently for the southeast corner opposite the White House gate. Various studies have been made showing how the entire square might be developed with or without the preservation of the Blair, Blair-Lee, and Decatur houses.

It appears to this Commission that the proximity of this square to the White House dictates its reservation for uses associated with the executive establishment, if not actually with the Executive Office of the President. Locations near the White House and Executive Office establishment are and always will be at such a premium that it would seem to be unwise not only to reestablish the Court of Claims at this location, but to impair the eventual utilization of the entire square for a single Government building.

For the above reasons, the Commission does not recommend the passage of this legislation and in lieu thereof suggests that a study be made for a grouping of all the Federal courts at a location where they would be physically associated with other parts of the judiciary establishment.

The Bureau of the Budget advises that it has no objection to the submission of the above report.

Sincerely yours,

HARLAND BARTHOLOMEW, *Chairman.*

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D. C., April 23, 1956.

Hon. DENNIS CHAVEZ,
Chairman, Committee on Public Works,
United States Senate, Washington, D. C.

MY DEAR MR. CHAIRMAN: This is in reply to your letter of March 15, 1956, requesting the views of the Bureau of the Budget on S. 3445,

to provide for the construction, equipment, and furnishing of a building for the United States Court of Claims, and for other purposes.

The Commission of Fine Arts and the National Capital Planning Commission do not consider the construction of a new United States Court of Claims building on the site of the present building in conformity with the long-range plans for the site. The Commission of Fine Arts suggests that the area now occupied by the Court of Claims be reserved for future requirements of the executive branch of the Government and that the relocation of the Court of Claims be in the vicinity of the Supreme Court or Judiciary Square.

This Office concurs with these views and recommends that this measure not be enacted.

Sincerely yours,

(Signed) PERCY RAPPAPORT,
Assistant Director.

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Calendar No. 2740

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2693

PROVIDING FOR THE DISPOSAL OF FEDERALLY OWNED PROPERTY AT OBSOLESCENT CANALIZED WATERWAYS

JULY 20 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. CHAVEZ, from the Committee on Public Works, submitted the following

REPORT

[To accompany H. R. 7596]

The Committee on Public Works, to whom was referred the bill (H. R. 7596) to provide for the disposal of federally owned property at obsolescent canalized waterways and for other purposes, having considered the same, report favorably thereon with amendments, and recommend that the bill as amended do pass.

The amendments are indicated in the bill as reported by line type and italics.

PURPOSE OF THE BILL

The purpose of the bill is to authorize conveyance to States, political subdivisions thereof, or others, of all or any part of the right, title, and interest of the United States in and to the locks, dams, and related property acquired or constructed in connection with the following Federal navigation projects, whenever the Secretary of the Army determines that any such property no longer economically serves the purpose for which it was constructed or acquired:

Waterway	Number of lock and dam structures	Acreage
Upper White River, Ark	3	156
Big Sandy River, Ky	5	88
Rough River, Ky	1	10
Osage River, Mo	1	10
Muskingum River, Ohio	11	120
Yamhill River, Oreg	1	9
Congaree River, S. C	1	7
Little Kanawha River, W. Va	5	25

This group of 28 obsolescent locks and low-head navigation dams on 8 streams are no longer operated and maintained by the United

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States. The acreage involved in these projects amounts to 425 acres. The project works were built or acquired by the United States many years ago as part of authorized Federal projects and no longer serve the purpose of commercial navigation for which they were authorized. No Federal funds are being appropriated and expended for operation and maintenance of these obsolete facilities other than for custodial maintenance. On the Little Kanawha River, W. Va., for instance, operation and maintenance of lock and dam No. 5 built in 1891 was discontinued several years ago due to the cessation of commercial traffic. For the same reason locks and dams Nos. 1 through 4, built in 1874 and purchased by the United States in 1905, were taken out of operation; the lowermost lock in July 1951. The small acreage of federally owned land at the lock sites is under lease to residents of the area. In general, similar conditions exist with respect to other deteriorated and unmaintained locks and dams and real property at the sites. Inasmuch as these structures and real properties are still part of authorized Federal waterway projects, it is considered that they cannot properly be declared excess and Federal ownership transferred to others without authorization from Congress.

The Department of the Army informed the committee that while the locks on which operation and maintenance has ceased have no foreseeable use from the standpoint of general commercial navigation, some of the adjacent dams impound water which is used as a source of water supply for municipalities and industries bordering the streams. At certain locations the local interests desire the dams and are willing to take over the maintenance of the structures to meet their water supply requirements. For instance, an industrial plant on the pool of dam No. 1 on the Little Kanawha River has been granted temporary permission to maintain the dam. Also, the city of Batesville, Ark., which is along the pool of lock and dam No. 1 on the upper White River, has been granted a departmental license to occupy, operate, and maintain these project works for recreational purposes. The Department further informed the committee that, in its opinion, it would be in the public interest to transfer such project works to the local interests. While authority is available to grant others permission to occupy the land and structures and maintain the property at their expense, the Department feels it would be highly desirable for the United States to divest itself of all interest in and right to such property and thereby avoid any Federal financial or other responsibility for the property in the future.

The committee notes that at the present time, studies are authorized on the Big Sandy and Rough Rivers, Ky., to ascertain whether or not further improvement for navigation is feasible. The Big Sandy survey will be completed during fiscal year 1957. The survey of Rough River has not been initiated. In order that the disposal of the property on those streams will not interfere with any plan of improvement proposed, the committee has amended the bill to permit deferment of action with respect to those streams until a determination has been made of the future requirements.

The committee has further amended the bill to provide authority to expend $50,000 for restoration of dam No. 3 on the Big Sandy River. This dam has not been in operation for 12 years. Originally constructed as a portion of the Federal navigation portion, when its operation and maintenance was discontinued, the pool formed by this

movable dam was no longer maintained. As a result, the water supply for the city of Louisa, county seat of Lawrence County, Ky., is extremely restricted, particularly during the summer months. This lack of an adequate water supply has sharply curtailed existing industrial activities, and hampered the commercial growth and expansion of this community, which is in an economically distressed area. The committee believes this procedure desirable and thoroughly justified.

It is the opinion of the committee that this legislation would be in the public interest, and enactment is recommended.

The letter from the Department of the Army forwarding a draft of this legislation is as follows:

MARCH 1, 1955.

Hon. RICHARD M. NIXON,
President of the Senate.

DEAR MR. PRESIDENT: There is forwarded herewith a draft of legislation to provide for the disposal of federally owned property at obsolescent canalized waterways, and for other purposes.

This proposal is part of the Department of Defense legislative program for 1955, and it has been approved by the Bureau of the Budget. The Department of the Army, on behalf of the Department of Defense, recommends that it be enacted by the Congress.

The purpose of the legislation is to authorize conveyance to States, political subdivisions thereof, or other, of all or any part of the right, title, and interest of the United States in and to the locks, dams, and related property acquired or constructed in connection with the following Federal navigation projects, whenever the Secretary of the Army determines that any such property no longer economically serves the purpose for which it was constructed or acquired:

Waterway	Structures	Acreage
Upper White River, Ark	3 locks and dams	156
Big Sandy River, Ky	5 locks and dams	88
Rough River, Ky	1 lock and dam	10
Osage River, Mo	1 lock and dam	10
Muskingum River, Ohio	11 locks and dams	120
Yamhill River, Oreg	1 lock and dam	9
Congaree River, S. C	1 lock and dam	7
Little Kanawha River, W. Va	5 locks and dams	25
		425

This group of 28 obsolescent locks and low-head navigation dams is no longer operated and maintained by the United States. The project works were built or acquired by the United States many years ago as part of authorized Federal projects and no longer serve the purpose of commercial navigation for which they were authorized. No Federal funds are being appropriated and expended for operation and maintenance of these obsolete facilities other than for custodial maintenance. On the Little Kanawha River, W. Va., for instance, operation and maintenance of lock and dam No. 5, built in 1891, was discontinued several years ago due to the cessation of commercial traffic. For the same reason locks and dams Nos. 1 through 4, built in 1874 and purchased by the United States in 1905, were taken out of operation; the lowermost lock in July 1951. The small acreage of federally owned land at the lock sites is under lease to residents of the

area. In general, similar conditions exist with respect to other deteriorated and unmaintained locks and dams and real property at the sites. Inasmuch as these structures and real properties are still part of authorized Federal waterway projects, it is considered that they cannot properly be declared excess and Federal ownership transferred to others without authorization from Congress.

While the locks on which operation and maintenance has ceased have no foreseeable use from the standpoint of general commercial navigation, some of the adjacent dams impound water which is used as a source of water supply for municipalities and industries bordering the streams. At certain locations the local interests desire the dams and are willing to take over the maintenance of the structures to meet their water supply requirements. For instance, an industrial plant on the pool of dam No. 1 on the Little Kanawha River has been granted temporary permission to maintain the dam. Also, the city of Batesville, Ark., which is along the pool of lock and dam No. 1 on the upper White River, has been granted a departmental license to occupy, operate, and maintain these project works for recreational purposes. It would be in the public interest to transfer such project works to the local interests. While authority is available to grant others permission to occupy the land and structures and maintain the property at their expense, it would be highly desirable for the United States to divest itself of all interest in and right to such property and thereby avoid any Federal financial or other responsibility for the property in the future.

In addition to the waterways and properties herein listed, two other obsolescent waterways, the Illinois and Mississippi Canal, Ill., and the upper Fox River, Wis., will require the enactment of special legislation to authorize the transfer of the properties to a State agency or disposal to others. Proposed legislation with respect thereto is dependent upon further negotiations with the State authorities and will be made the subject of a separate communication.

The enactment of the proposed legislation would involve minor expenditures for administrative purposes.

Sincerely yours,

ROBERT T. STEVENS,
Secretary of the Army.

A BILL To provide for the disposal of federally owned property at obsolescent canalized waterways and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, whenever the Secretary of the Army, upon recommendation of the Chief of Engineers, determines that any of the following listed Federal project structures and appurtenances, including real property acquired therefor, no longer economically serves the purpose for which they were constructed or acquired, such property may be disposed of in accordance with the provisions of existing law: Upper White River, Arkansas (3 locks and dams); Big Sandy River, Kentucky (5 locks and dams); Rough River, Kentucky (1 lock and dam); Osage River, Missouri (1 lock and dam); Muskingum River, Ohio (11 locks and dams); Yamhill River, Oregon (1 lock and dam); Congaree River, South Carolina (1 lock and dam); Little Kanawha River, West Virginia (5 locks and dams).

SEC. 2. There is hereby authorized to be expended from appropriations heretofore or hereafter made for civil functions administered by the Department of the Army, such funds as may be necessary to restore drainage and otherwise prepare the project structures for abandonment with a minimum of adverse effect on adjacent areas.

SEC. 3. The Administrator of General Services is hereby authorized to transfer or to convey by quitclaim deed to States, political subdivisions thereof, adjacent property owners, or others, all or any part of the right, title, and interest of the United States in and to such property upon such terms and conditions as the Administrator may determine to be in the public interest, regardless of any other provision of law: *Provided however*, That preference shall be given to State, or local governmental agencies to acquire property not transferred to other Federal agencies.

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Calendar No. 2741

84TH CONGRESS, 2d Session } SENATE { REPORT No. 2694

PROVIDING FOR AN INVESTIGATION OF THE NEED FOR A GEOPHYSICAL INSTITUTE IN THE TERRITORY OF HAWAII

JULY 20 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. JACKSON, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany H. J. Res. 643]

The Committee on Interior and Insular Affairs, to whom was referred the joint resolution (H. J. Res. 643) to provide for an investigation of the need for a geophysical institute in the Territory of Hawaii, having considered the same, report favorably thereon without amendment and recommend that the joint resolution do pass.

Committee action was unanimous, based on a hearing and the views of the Department of the Interior, the Air Force, and the National Science Foundation.

EXPLANATION OF THE BILL

The purpose of House Joint Resolution 643, introduced by Delegate Farrington, of Hawaii, is to authorize and direct the National Science Foundation to conduct an investigation into the need for and the feasibility and usefulness of a geophysical institute located in the Territory of Hawaii.

Thus, House Joint Resolution 643 is a study bill, and no new appropriations of Federal funds are contemplated under it. Originally, Delegate Farrington introduced H. R. 7754, a bill to authorize an appropriation for the establishment of a geophysical institute at the University of Hawaii. Reports on H. R. 7754 were requested of and subsequently received from the appropriate executive departments.

Because of the amount of research required by the National Science Foundation in preparing its report on H. R. 7754, the House committee decided to substitute House Joint Resolution 643 for H. R. 7754 and thus enable the submission of a more comprehensive report. Although section 3 authorizes the use of Federal funds for the im-

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plementation of the resolution, the National Science Foundation assured the House committee that no extra appropriation of Government funds will be required by the enactment of the legislation.

EXECUTIVE AGENCY REPORTS

The reports of the Department of Commerce and Department of the Air Force on H. R. 7754 and the reports on House Joint Resolution 643 from the National Science Foundation and the Bureau of the Budget and a supplemental report from Interior specifically recommending House Joint Resolution 643 are as follows:

THE SECRETARY OF COMMERCE,
Washington, D. C., June 6, 1956.

Hon. CLAIR ENGLE,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D. C.

DEAR MR. CHAIRMAN: This is in reply to your request of November 25, 1955, for the views of this Department with respect to H. R. 7754, a bill to authorize an appropriation for the establishment of a geophysical institute at the University of Hawaii.

The bill authorizes the construction and establishment of a geophysical institute at the University of Hawaii, Territory of Hawaii. The bill, among other things, provides that matters of institute policy shall be determined by a director by and with the advice of an advisory committee. The director is to be appointed by the board of regents of the University of Hawaii upon the approval of the President of the National Academy of Sciences. The advisory committee is to be appointed by the President of the National Academy of Sciences after consultation with the president of the university.

A geophysical institute situated in Hawaii would be concerned with those fields of geophysics which are uniquely related to its geographical location, such as oceanography, volcanology, seismology, geomagnetism, and many phases of meteorology. Such an institute would be of benefit to this Department's National Bureau of Standards, Weather Bureau, and Coast and Geodetic Survey. These Bureaus are directly concerned with the observation and collection of data relating to the geophysical sciencies.

However, under the National Science Foundation Act of 1950 the National Science Foundation has the legal authority to consider and support facilities for the furtherance of basic research such as proposed in this bill. It is believed, therefore, that the specific need for the institute should more properly be examined by the Foundation in the context of need at other locations and in other fields of science.

Therefore, although this Department is in accord with the objectives of this legislation, we would defer to the views of the National Science Foundation with respect to the specific need for the institute.

We have been advised by the Bureau of the Budget that it would interpose no objection to the submission of this report to your committee.

Sincerely yours,

SINCLAIR WEEKS,
Secretary of Commerce.

DEPARTMENT OF THE AIR FORCE,
OFFICE OF THE SECRETARY,
Washington, D. C., April 18, 1956.

Hon. CLAIR ENGLE,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D. C.

DEAR MR. CHAIRMAN: Reference is made to your request for the views of the Department of Defense with respect to H. R. 7754, 84th Congress, a bill to authorize an appropriation for the establishment of a geophysical institute at the University of Hawaii. The Secretary of Defense has delegated to this Department the responsibility for expressing the views of the Department of Defense.

The purpose of the proposed legislation is to authorize the appropriation of $1 million for the construction and establishment of a geophysical institute at the University of Hawaii, Territory of Hawaii. The bill also considers certain matters such as the location of the institute, how the funds appropriated may be expended, the appointment of a director of the institute and an advisory committee to the director, and provides the director and advisory committee with exclusive jurisdiction over all moneys received by the institute from public or private sources.

The Department of the Air Force on behalf of the Department of Defense interposes no objection to the enactment of H. R. 7754.

Within the Department of Defense, geophysics embraces the fields of meteorology, oceanography, geography, earth physics, cartography, and geodesy. Any scientific accomplishment in the fields of oceanography, gravity, geomagnetism, and seismology by the proposed institute would materially aid in increasing the technical and scientific knowledge of and benefit the Department of Defense.

The Department of Defense is currently carrying out a relatively small amount of geophysical research in Hawaii using existing contractors, and has experienced satisfactory results in getting needed research accomplished in this fashion. If the subject geophysical institute should be established and adequately staffed, it is possible that the Department of Defense would utilize the institute for research on selected geophysical problems.

The enactment of this proposal will have no budgetary effect insofar as the Department of Defense is concerned.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Bureau of the Budget advises that there is no objection to the submission of this report.

Sincerely yours,

DONALD A. QUARLES.

NATIONAL SCIENCE FOUNDATION,
OFFICE OF THE DIRECTOR,
Washington, D. C., June 26, 1956.

Hon. CLAIR ENGLE,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D. C.

DEAR MR. ENGLE: This is in reply to your letter of June 11, 1956, requesting the comments of the National Science Foundation with regard to House Joint Resolution 643, a joint resolution to provide

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for an investigation of the need for a geophysical institute in the Territory of Hawaii.

The Foundation has authority under the National Science Foundation Act of 1950 (Public Law 507, 81st Cong., 2d sess.) to conduct an investigation into the need for, and the feasibility and usefulness of, a geophysical institute in the Territory of Hawaii. However, House Joint Resolution 643 specifically directs the National Science Foundation to conduct such an investigation and report the results of its investigation to the Congress within 9 months.

Geophysics, the study of the physics of the earth and its atmosphere, requires observations of various phenomena over large areas. The Hawaiian Island chain would appear to provide unique opportunities for specialized geophysical observations, as it is the center of an area of about 2,500 miles radius where at present very few observations can be made, except by oceanographic vessels. However, the need for an institute in Hawaii must be considered in the light of similar needs in the United States and its Territories. For this reason, we believe that such a study is appropriate.

The Bureau of the Budget has advised us that it has no objection to the submission of this report.

Thank you for giving us the opportunity to comment on this bill.

Sincerely yours,

ALAN T. WATERMAN, *Director.*

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D. C., June 25, 1956.

Hon. CLAIR ENGLE,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D. C.

MY DEAR MR. CHAIRMAN: This will acknowledge your letter of June 11, 1956, requesting the views of the Bureau of the Budget on House Joint Resolution 643, a joint resolution to provide for an investigation of the need for a geophysical institute in the Territory of Hawaii.

The resolution authorizes and directs the National Science Foundation to conduct an investigation into the need for and the feasibility and usefulness of a geophysical institute located in the Territory of Hawaii.

It should be pointed out that the National Science Foundation already has legal authority to conduct investigations into the need for basic research facilities. The Bureau does not, however, object to enactment of the proposed joint resolution which directs that such a study be undertaken.

Sincerely yours,

ROBERT E. MERRIAM,
Assistant to the Director.

The Committee on Interior and Insular Affairs recommends enactment of House Joint Resolution 643.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D. C., July 2, 1956.

Hon. CLAIR ENGLE,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D. C.

MY DEAR MR. ENGLE: This responds to your request for the views of this Department on H. R. 7754, a bill to authorize an appropriation for the establishment of a geophysical institute at the University of Hawaii.

H. R. 7754 would authorize the appropriation of $1 million for the construction and establishment of a geophysical institute at the University of Hawaii, which is to function as an adjunct of the university, and for housing accommodations for the scientists carrying out the program of the institute. None of the funds would be expended for maintenance, including the salaries of staff personnel. The bill provides for the creation of an advisory committee to be appointed by the president of the National Academy of Sciences. The advisory committee would have the right to approve the appointment, by the board of regents of the university, of the director of the institute. This committee and the director would have exclusive jurisdiction over the expenditure of all moneys received by the institute from public or private sources, including, presumably, any moneys appropriated pursuant to the authorization contained in the bill.

This Department is in accord with the general objective of encouraging geophysical research in the Territory of Hawaii. The Territory is particularly suited to such study in view of the seismological and volcanic activity in the area, as well as its proximity to the sea. The Geological Survey now operates a volcano observatory in Hawaii and consideration has been given recently to the expansion of its facilities to include certain geochemical investigations related to volcanological problems.

It would appear, therefore, that the establishment of a geophysical institute at the University of Hawaii would be a desirable additional facility in the quest of more knowledge and learning in the field of the physical sciences. But we are uncertain whether sufficient consideration has yet been given to the proposed institute and to various details concerning its establishment and maintenance to warrant the enactment of legislation authorizing the expenditure of $1 million for this purpose. For example, we should like to point out that the bill fails to contain provision for any Federal agency to have responsibility for reviewing the expenditure of funds which would be authorized in order to assure their proper use, and there is no requirement for any special consideration to be given to investigations and research in which the Federal Government may have a particular interest. We are, therefore, unwilling to endorse H. R. 7754 at this time.

But because we recognize the probable desirability of a geophysical institute at the University of Hawaii, we believe that an investigation of this matter should be undertaken by the National Science Foundation. In investigating and reporting upon the need for and the feasibility and usefulness of such an institution, we believe that the Foundation should give particular attention to the benefits which would arise to the Federal Government from its establishment, to

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the appropriateness of financing by the Federal Government, to the agency of the executive branch which should have authority over the institute, and to the relationship the institute should bear to the university. There is now pending before your committee House Joint Resolution 643 which would authorize such an investigation and would direct the Foundation's attention to the specific problems aforementioned. It would require the Foundation to report the results of its investigation to the Congress 9 months after the date of enactment of the joint resolution.

I, therefore, recommend that House Joint Resolution 643 be enacted in lieu of H. R. 7754.

The Bureau of the Budget has advised that there is no objection to the submission of this proposed legislation to the Congress.

Sincerely yours,

WESLEY A. D'EWART,
Assistant Secretary of the Interior.

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Calendar No. 2742

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2695

AMENDING SECTION 104 TITLE 4, UNITED STATES CODE

JULY 20 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. JACKSON, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany H. R. 11254]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H. R. 11254) to amend section 104, title 4, United States Code, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

The bill is an administration measure, with of course Bureau of Budget clearance. No opposition is on record with the committee.

Committee action in recommending passage was unanimous.

PURPOSE OF BILL

H. R. 11254 would place the Territorial government of the American Territory of Guam on a basis of equality with the States and Alaska and Hawaii in authorizing the government of Guam to collect gasoline taxes on motor fuel sold on military posts, PX's and the like for nonmilitary use. The bill would accomplish this purpose by amending section 104, title 4, United States Code to make its provisions applicable to Guam.

It is estimated that the Territorial government would receive nearly $150,000 a year from such sources, and these funds would be used for highway improvements on Guam. The law is specific that no tax may be levied on gasoline used for a Federal Government purpose; it would apply only to fuel used for the personal business or pleasure of persons entitled to buy motor fuel on military reservations.

BACKGROUND OF LEGISLATION

The government of Guam imposes a gasoline tax of 4 cents a gallon, and its revenue from this source in recent years has approximated $225,000 annually. In contrast to this figure, the Territorial government spent almost one-half million dollars in each of the fiscal years

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1953 and 1954 on road maintenance, repair, and construction, and it spent over $300,000 for this purpose in fiscal year 1955.

Of the 12,825 vehicles registered in Guam, 6,191 were registered by military personnel, military contract workmen, civil-service employees of the United States, and their dependents. Thus, about half of all vehicles using Guam's highways, roads, and streets are operated by persons who are entitled to obtain, and who very likely do obtain, gasoline at the military exchanges free of the local tax.

With respect to current arrangements for financing construction and maintenance of Guam's roads, the Department of the Interior states, and the Committee on Interior and Insular Affairs concurs, that the government of Guam is carrying its fair share of the cost. Excluding roads on military reservations, for which the Territorial government has no responsibility, there are 105 miles of a total of 168.6 miles of roads on the island which are maintained solely by the government of Guam. In addition, Guam contributes up to 20 percent of the maintenance costs on another 40 miles of island road.

In light of these circumstances the committee members believe that the Territory of Guam should be allowed to tax gasoline sales on military reservations in order to assist the local government in meeting its responsibilities for construction and maintenance of roads.

REPORT OF EXECUTIVE AGENCY

The executive communication from the Department of the Interior, transmitting a draft of the proposed legislation, is as follows:

DEPARTMENT OF THE INTERIOR,
Washington, D. C., May 11, 1956.

Hon. SAM RAYBURN,
Speaker of the House of Representatives,
Washington, D. C.

MY DEAR MR. SPEAKER: Enclosed herewith is a draft of a proposed bill to amend section 104, title 4, United States Code It is requested that the proposed bill be referred to the appropriate committee for consideration and we recommend that it be enacted.

The proposed bill would extend to Guam the benefits of section 104 of title 4, United States Code, which provides that taxes levied by the States and Territories with respect to sales of gasoline may be levied with respect to sales of gasoline by post exchanges, commissaries, and similar agencies located on Federal military reservations, when such fuel is not for the exclusive use of the United States. If the bill were enacted, gasoline sold by military exchanges in Guam would be subject to the Territorial gasoline tax, unless the gasoline were to be used exclusively by the United States, and the revenue resulting would be paid into the Territorial treasury.

The Governor of Guam has strongly recommended, and this Department fully concurs with the Governor's view, that this gasoline tax benefit should be extended to Guam. The statute now applies to the States, Alaska, and Hawaii, and we see no reason why Guam should not also be accorded its benefits. Guam, alone among the areas under the jurisdiction of the United States to which the statute does not now apply, suffers appreciable financial injury by reason of tax-free sales of gasoline on military posts.

The government of Guam imposes a gasoline tax of 4 cents per gallon, and its revenue from this source in recent years has approximated $225,000 annually. In contrast to this figure, the Territorial government spent almost one-half million dollars in each of the fiscal years 1953 and 1954 on road maintenance, repair, and construction, and it spent over $300,000 for this purpose in fiscal year 1955. These costs will increase materially as a result of new arrangements, referred to below, under which the Territorial government will bear an increasing share of responsibility for roads jointly maintained by the Department of the Navy and the government of Guam. Of the 12,825 vehicles registered in Guam during a recent period, 6,191 were registered by military personnel, military contract workmen, civil-service employees of the United States, and their dependents. Thus, about half of all vehicles using Guam's highways, roads, and streets are operated by persons who are entitled to obtain, and who very likely do obtain, gasoline at the military exchanges free of the local tax. If the gasoline purchased by these individuals were subject to the Territorial tax, it is estimated that the revenues of the Guam government derived from this source would be increased by about $141,600 annually.

We are aware that the United States, through the Department of the Navy, contributes to the maintenance of some roads in Guam, and that most of these roads were constructed with funds appropriated to the military. We do not believe, however, that these facts alone justify the exclusion of Guam from the benefits of the statute cited above. Roads which were built in Guam following World War II with funds from military appropriations were part of the program of reconstructing war damage. They doubtless were, and should have been, regarded as a war cost.

With respect to current arrangements for financing construction and maintenance of Guam's roads and highways, we believe that the government of Guam is certainly carrying its fair share. Excluding roads on military reservations, for which the Territorial government has, and should have, no responsibility, 105 miles of a total of 168.6 miles of roads in Guam are maintained solely by the government of Guam. It is expected that an additional 20 miles of roads will be transferred to the total responsibility of the government of Guam in the near future. Of the remaining roads, now approximately 63 miles, but expected soon to be reduced to 43 miles, the Territorial government now contributes 20 percent of the maintenance costs. Under this arrangement, Guam has in recent years contributed about $12,000 annually toward the maintenance of such roads. This amount was increased to $15,900 in the fiscal year 1955, and it is expected to rise to almost 50 percent of the total maintenance costs as a result of current negotiations between the Department of the Navy and the Territorial government.

In these circumstances, we believe that Guam should be allowed to tax gasoline sales on military reservations, in order to assist the local government in meeting its responsibilities for the construction and maintenance of roads,

The Bureau of the Budget has advised that there is no objection to the submission of this legislation to the Congress.

Sincerely yours,

WESLEY H. D'EWART,
Assistant Secretary of the Interior.

UNIVERSITY OF MICHIGAN LIBRARIES

A BILL To amend section 104, title 4, United States Code

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 104 of title 4, United States Code, is hereby amended by adding at the end thereof the following new subsection, to be designated subsection (c) and to read as follows:

"(c) As used in this section, the term 'Territory' shall include Guam."

The Committee on Interior and Insular Affairs recommends enactment of H. R. 11254.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as introduced, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 104, TITLE 4, UNITED STATES CODE

(a) All taxes levied by any State, Territory, or the District of Columbia upon, with respect to, or measured by, sales, purchases, storage, or use of gasoline or other motor vehicle fuels may be levied, in the same manner and to the same extent, with respect to such fuels when sold by or through post exchanges, ship stores, ship service stores, commissaries, filling stations, licensed traders, and other similar agencies, located on United States military or other reservations, when such fuels are not for the exclusive use of the United States. Such taxes, so levied, shall be paid to the proper taxing authorities of the State, Territory, or the District of Columbia, within whose borders the reservation affected may be located.

(b) The officer in charge of such reservation shall, on or before the fifteenth day of each month, submit a written statement to the proper taxing authorities of the State, Territory, or the District of Columbia within whose borders the reservation is located, showing the amount of such motor fuel with respect to which taxes are payable under subsection (a) for the preceding month.

(c) As used in this section, the term "Territory" shall include Guam.

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Calendar No. 2743

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2696

AUTHORIZING THE CONVEYANCE OF HOMESTEAD ALLOTMENTS TO INDIANS, ALEUTS, OR ESKIMOS IN ALASKA

JULY 20 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. JACKSON, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany H. R. 11696]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H. R. 11696) to authorize the conveyance of homestead allotments to Indians, Aleuts, or Eskimos in Alaska, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

The measure was submitted by the Department of the Interior, and has the support of the elected Delegate from Alaska, the Honorable E. L. Bartlett, who introduced it.

Committee action was unanimous.

EXPLANATION OF THE BILL

H. R. 11696 would broaden the Indian homestead law in Alaska to permit sale or other conveyance of allotted homestead lands, with the purchaser taking full title. However, if the purchaser is another Indian, Aleut, or Eskimo, who the Secretary of the Interior determines is unable to manage the land, then any such conveyance would be subject to the existing restriction against alienation.

The bill also would permit homesteads to be selected on lands that are valuable for coal, oil, or gas, provided the minerals themselves are reserved to the United States. Allotments may be made in national forests if the land is chiefly valuable for agriculture or grazing purposes, or if the native had occupied the land prior to the establishment of the forest.

Another change the bill would make in the Alaskan Indian homestead law is the inclusion of Aleuts, the native inhabitants of the Aleutian Islands, within its provisions.

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BACKGROUND OF LEGISLATION

Under the act of May 17, 1906 (34 Stat. 197, 48 U. S. C. 357), certain Indians or Eskimos may obtain allotments not in excess of 160 acres of nonmineral land provided that the allotted lands shall be deemed the homesteads of the allottees and their heirs in perpetuity, and shall be inalienable and nontaxable until otherwise provided by Congress.

As of November 8, 1955, a total of 79 allotments had been made pursuant to the act of May 17, 1906, and 64 additional applications were under consideration. When an allottee dies and his heirs do not wish to live on the allotted land, the land becomes worthless to the heirs for all practical purposes unless they are able to sell it. Several such situations have arisen. Even before an allottee dies, moreover, the inalienability of the allotment deprives the land of most of its value if the allottee decides to move to another tract.

The committee believes that provision should be made for the sale of the land, subject to the approval of the Secretary of the Interior in order to safeguard the interests of the Indian or Eskimo, and for the conveyance of an unrestricted title to the land unless the purchaser is an Indian or Eskimo who is in need of continued Federal protection and the conveyance specifically provides for a continuance of the restrictions.

Under existing law, when an Indian or Eskimo is entitled to a townsite lot, he is issued a restricted deed that may be alienated with the approval of the Secretary of the Interior; therefore, there seems to be no sound reason why the same rights should not be extended to homestead allottees.

As to permitting homestead allotments on lands valuable for coal, oil, or gas, non-Indians in Alaska may homestead such lands (act of March 8, 1922; 48 U. S. C. 376), and equity would seem to require that Indians be accorded equal opportunity. Also, such a rule would facilitate administration if applied to Indian homestead allotments in Alaska.

REPORTS OF ADMINISTRATIVE AGENCY

The Executive communication transmitting a draft of the proposed legislation, and a subsequent report from the Department of the Interior are set forth in full. The recommended amendments have been adopted.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D. C., April 2, 1954.

Hon. SAM RAYBURN,
Speaker of the House of Representatives,
Washington, D. C.

MY DEAR MR. SPEAKER: Transmitted herewith is a draft of a proposed bill to authorize the conveyance of homestead allotments to Indians or Eskimos in Alaska.

We recommend that the proposed bill be referred to the appropriate committee for consideration, and we recommend that it be enacted.

The act of May 17, 1906 (34 Stat. 197, 48 U. S. C. 357), provides for the allotment of not to exceed 160 acres of nonmineral land to certain Indians or Eskimos in Alaska, and provides that "the land so allotted shall be deemed the homestead of the allottee and his

heirs in perpetuity, and shall be inalienable and nontaxable until otherwise provided by Congress."

As of November 8, 1955, a total of 79 allotments had been made pursuant to this act, and 64 additional applications were under consideration.

When an allottee dies and his heirs do not wish to live on the allotted land, the land becomes worthless to the heirs for all practical purposes unless they are able to sell the land. Several such situations have arisen. Even before an allottee dies, moreover, the inalienability of the allotment deprives the land of most of its value if the allottee decides to move to another tract. We therefore believe that provision should be made for the sale of the land, subject to the approval of the Secretary of the Interior in order to safeguard the interests of the Indian or Eskimo, and for the conveyance of an unrestricted title to the land unless the purchaser is an Indian or Eskimo who is in need of continued Federal protection and the conveyance specifically provides for a continuance of the restrictions. The proposed bill so provides.

It should be noted that under section 1 of the act of May 25, 1926 (44 Stat. 629, 48 U. S. C. 355a), when an Indian or Eskimo native of Alaska is entitled to a townsite lot he is issued a restricted deed that may be alienated with the approval of the Secretary of the Interior. We believe that there is no sound reason for denying homestead allottees the same right that is extended to townsite allottees.

The Bureau of the Budget has advised that there is no objection to the submission of this proposed legislation.

Sincerely yours,

WESLEY A. D'EWART,
Assistant Secretary of the Interior.

A BILL To authorize the conveyance of homestead allotments to Indians or Eskimos in Alaska

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any Indian or Eskimo native of Alaska who has received a homestead allotment pursuant to the Act of May 17, 1906 (34 Stat. 197, 48 U. S. C. 357), or his heirs, is hereby authorized to convey by deed, with the approval of the Secretary of the Interior, the title to the land so allotted. Such conveyance shall vest in the purchaser a complete title to the land which shall be subject to restrictions against alienation and taxation only if the purchaser is an Indian or Eskimo who the Secretary determines is unable to manage the land without the protection of the United States and the conveyance provides for a continuance of such restrictions.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D. C., June 7, 1956.

Hon. CLAIR ENGLE,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D. C.

MY DEAR MR. ENGLE: H. R. 11023, a bill to authorize the conveyance of homestead allotments to Indians, Aleuts, or Eskimos in Alaska,

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was introduced as a clean bill to include the amendments that the Subcommittee on Territories proposed to make to H. R. 10505. The latter bill was drafted and submitted by executive communication from this Department on April 2, 1956.

After reviewing H. R. 11023, we believe that several technical amendments are desirable and a draft substitute bill is enclosed which we believe will accomplish the purposes of the subcommittee and also make the corrections explained below.

The primary purpose of the bill, as indicated in our letter of April 2, 1956, is to permit an Indian or Eskimo in Alaska who receives a homestead allotment under the act of May 17, 1906 (34 Stat. 197, 48 U. S. C. 357), or his heirs, to alienate the land with the approval of the Secretary of the Interior, and to permit the purchaser to take an unrestricted title unless he is an Indian or Eskimo who the Secretary determines needs further Federal protection. An Indian or Eskimo who has a townsite allotment in Alaska may alienate the property with the approval of the Secretary, and we believe that an Indian or Eskimo homestead allottee should have the same right.

Subsection (a) of the enclosed substitute bill broadens the 1906 act to permit the grant of homestead allotments to Aleuts, as well as to Indians and Eskimos in Alaska. This is a provision recommended by the subcommittee.

Subsection (b) of the enclosed substitute bill makes it clear that homesteads may be selected under section 1 of the 1906 act only from vacant, unappropriated, and unreserved land. That has been the consistent administrative interpretation of the act. Unless that fact is specified, however, the provision in section 2 of the bill permitting Indian homesteads to be selected in national forests under certain circumstances might be made the basis for an inference that other reserved lands are also available for homesteading.

Subsection (c) of the enclosed substitute bill broadens the 1906 act to permit homesteads to be selected on lands that are valuable for coal, oil, or gas deposits if the minerals themselves are reserved to the United States. That is the rule with respect to homestead selections by non-Indians (act of March 8, 1922, 42 Stat. 415, 48 U. S. C. 376), and it is the rule proposed for other forms of entry by H. R. 11026. It would facilitate administration if the same rule were applied to Indian homestead allotments in Alaska.

Subsection (d) of the enclosed substitute bill contains the substance of our original proposal, which is the principal purpose of the bill, i. e., to permit Indian and Eskimo homestead allottees to sell their allotments with the approval of the Secretary.

Subsection (e) of the enclosed substitute bill contains the subcommittee recommendations that are designed to safeguard the national forests. Some fear was expressed during the subcommittee hearings that the authority to sell homesteads might encourage Indians and Eskimos to seek homestead allotments in the national forests for the purpose of selling them to others. This danger is effectively obviated by enacting into law the substance of the Department's present regulations on the subject, which prohibit homestead selections in the national forests unless they are founded upon occupancy of the land prior to the establishment of the forest, or unless the land selected is determined by the Secretary of Agriculture to be chiefly valuable for agricultural or grazing purposes, and which require the homesteader to prove 5 years' occupancy of the land.

As a technical drafting matter, these provisions should be incorporated by amendment into the 1906 act, rather than restricted to allotments made under the new legislation. Also as a technical matter, it is preferable to refer to lands in the national forests that are chiefly valuable for agricultural or grazing purposes rather than to refer to section 31 of the act of June 25, 1910 (36 Stat. 863, 25 U. S. C. 337), which recognizes only the timber value of the land in comparison with its agricultural or grazing value, and ignores other public values of the forest lands. Finally, as a technical matter, the 5-year occupancy provision should indicate that the occupancy must be substantially continuous and does not include only intermittent use.

We hope that the enclosed substitute bill will facilitate the deliberations of your committee. We believe that it will accomplish the principal purpose of our original proposal and at the same time include all of the safeguards which the Subcommittee on Territories suggested.

Sincerely yours,

WESLEY A. D'EWART,
Assistant Secretary of the Interior.

PROPOSED SUBSTITUTE FOR H. R. 11023

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of May 17, 1906 (34 Stat. 197; 48 U. S. C. 357) is hereby amended:

(a) By inserting after the word "Indian" in the first sentence thereof the following: ", Aleut".

(b) By inserting before the word "nonmineral" in the first sentence thereof the following: "vacant, unappropriated, and unreserved".

(c) By inserting after the word "Alaska" the first time it appears in the first sentence thereof the following: ", or, subject to the provisions of the Act of March 8, 1922 (42 Stat. 415, 48 U. S. C. 376–377), vacant, unappropriated, and unreserved land in Alaska that may be valuable for coal, oil, or gas deposits,".

(d) By striking the period after the first sentence thereof and adding the following: ": *Provided*, That any Indian, Aleut, or Eskimo who receives an allotment under this act, or his heirs, is authorized to convey by deed, with the approval of the Secretary of the Interior, the title to the land so allotted, and such conveyance shall vest in the purchaser a complete title to the land which shall be subject to restrictions against alienation and taxation only if the purchaser is an Indian, Aleut, or Eskimo native of Alaska who the Secretary determines is unable to manage the land without the protection of the United States and the conveyance provides for a continuance of such restrictions."

(e) By adding two new sections as follows:

"SEC. 2. Allotments in national forests may be made under this act if founded on occupancy of the land prior to the establishment of the particular forest or if the Secretary of Agriculture certifies that the land in an application for an allotment is chiefly valuable for agricultural or grazing purposes.

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"SEC. 3. No allotment shall be made to any person under this act until said person has made proof satisfactory to the Secretary of the Interior of substantially continuous use and occupancy of the land for a period of five years."

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as introduced, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

ACT OF MAY 17, 1906 (34 STAT. 197; 48 U. S. C. 357)

The Secretary of the Interior is authorized and empowered, in his discretion and under such rules as he may prescribe, to allot not to exceed one hundred and sixty acres of *vacant, unappropriated, and unreserved* nonmineral land in Alaska, *or, subject to the provisions of the Act of March 8, 1922 (42 Stat. 415, 48 U. S. C. 376–377), vacant, unappropriated, and unreserved land in Alaska that may be valuable for coal, oil, or gas deposits,* to any Indian, *Aleut* or Eskimo of full or mixed blood who resides in and is a native of Alaska, and who is the head of a family, or is twenty-one years of age; and the land so allotted shall be deemed the homestead of the allottee and his heirs in perpetuity, and shall be inalienable and nontaxable until otherwise provided by Congress[.] *: Provided, That any Indian, Aleut, or Eskimo who receives an allotment under this Act, or his heirs, is authorized to convey by deed, with the approval of the Secretary of the Interior, the title to the land so allotted, and such conveyance shall vest in the purchaser a complete title to the land which shall be subject to restrictions against alienation and taxation only if the purchaser is an Indian, Aleut, or Eskimo native of Alaska who the Secretary determines is unable to manage the land without the protection of the United States and the conveyance provides for a continuance of such restrictions.* Any person qualified for an allotment as aforesaid shall have the preference right to secure by allotment the nonmineral land occupied by him not exceeding one hundred and sixty acres.

SEC. 2. Allotments in national forests may be made under this Act if founded on occupancy of the land prior to the establishment of the particular forest or if the Secretary of Agriculture certifies that the land in an application for an allotment is chiefly valuable for agricultural or grazing purposes.

SEC. 3. No allotment shall be made to any person under this Act until said person has made proof satisfactory to the Secretary of the Interior of substantially continuous use and occupancy of the land for a period of five years.

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Calendar No. 2744

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2697

EXPRESSING THE SENSE OF THE CONGRESS AGAINST ADMISSION OF THE COMMUNIST REGIME IN CHINA AS THE REPRESENTATIVE OF CHINA IN THE UNITED NATIONS

JULY 20 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. GEORGE, from the Committee on Foreign Relations, submitted the following

REPORT

[To accompany H. Con. Res. 265]

The Committee on Foreign Relations, having had under consideration the concurrent resolution, House Concurrent Resolution 265, expressing the sense of the Congress against the admission of the Communist regime in China as the representative of China in the United Nations, reports the concurrent resolution favorably to the Senate and recommends that it be agreed to.

COMMITTEE ACTION

House Concurrent Resolution 265 was introduced by the Honorable Edna F. Kelly on July 13, 1956. It was considered and unanimously reported by the House Foreign Affairs Committee on July 13. On July 18, 1956, the House passed the concurrent resolution by a vote of 391 to 0. The Committee on Foreign Relations on July 20, 1956 voted without objection to report the resolution favorably to the Senate for action.

PURPOSE AND COMMITTEE RECOMMENDATION

The concurrent resolution expresses the sense of the Congress "that its previous expressions should be and are hereby reemphasized that the Communist regime in China should not be admitted to membership in the United Nations or any of its specialized agencies as the representative of China." By the terms of the resolution, moreover, the Congress "expresses its conviction that such admission would gravely injure the United Nations and impair its effective functioning in accordance with the aims, principles, and provisions of the United Nations Charter."

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The committee is aware that the Congress is already on record with regard to its views on the admission of Communist China in the Mutual Security Act of 1954, as amended, and in other ways. It was the feeling of the committee, however, that the Congress' strong and continuing opposition to the seating of Communist China should receive renewed expression. House Concurrent Resolution 265 offers the opportunity to do so. The committee, therefore, recommends to the Senate the adoption of this resolution to make clear to the world its unaltered opposition to Communist China membership in the United Nations and its specialized agencies.

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Calendar No. 2745

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2698

NATIONAL TRANSPORTATION WEEK

JULY 20 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. MAGNUSON, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany S. J. Res. 197]

The Committee on Interstate and Foreign Commerce, to whom was referred the joint resolution (S. J. Res. 197) authorizing the President to proclaim the period from October 22, 1956, to October 27, 1956, as National Transportation Week, having considered the same, report favorably thereon without amendment and recommend that the joint resolution do pass.

This resolution was suggested by the Associated Traffic Clubs of America, a national organization of 205 traffic clubs throughout the United States and Canada with 45,000 members engaged in all forms of transportation.

The purpose of the resolution is self-evident and the national observance of Transportation Week is designed to band together the various transportation industries and to build a better and more effective relationship between the transportation companies and the general public. It will also give our people a more comprehensive knowledge and understanding of an important segment of our national economy which has played a vital role in the growth of this Nation and is today the second largest industry.

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Calendar No. 2746

84TH CONGRESS, 2d Session } SENATE { REPORT No. 2699

AUTHORIZING CANADIAN VESSELS TO TRANSPORT COAL TO OGDENSBURG, N. Y.

JULY 20 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. MAGNUSON, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany S. 4247]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (S. 4247) to authorize Canadian vessels to be employed in the coastwise transportation of coal to Ogdensburg, N. Y., having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

This bill would permit until June 30, 1957, vessels of Canadian registry to transport coal to Ogdensburg, N. Y., from other points in the United States on the Great Lakes or their connecting or tributary waters, notwithstanding the prohibition against the operation of foreign vessels in the coastwise trade of the United States contained in section 27 of the Merchant Marine Act of 1920, as amended.

Throughout World War II a shortage of qualified American vessels made it necessary to employ Canadian vessels to transport coal in the Great Lakes coastwise trade in order to insure continuous winter supplies for the use of the St. Lawrence State Hospital, a mental institution of the State of New York. This was accomplished under the Treasury Department's wartime waiver authority which expired in 1947. Subsequently, the act of June 30, 1950 (Public Law 591, 81st Cong.), gave congressional sanction to the use of Canadian vessels for coal transportation to Ogdensburg during that year. Since that time the situation has not improved materially, and United States-flag vessels of the type required for shipment to Ogdensburg are presently unavailable. Facilities at this port require self-unloading vessels of a maximum displacement of about 4,000 tons. The only such vessels available are under the Canadian flag.

In addition, in the House hearing on the bill the author of the bill testified that this movement has always been by boat. Moreover, rail

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service is inadequate, and, in fact, the New York Central is presently petitioning to withdraw its branch-line service to Ogdensburg.

In view of all the circumstances, including the need for getting in the winter supplies as soon as possible, your committee favorably reports the bill, which would limit the suspension of the coastwise laws for this purpose to the current fiscal year. Evidence before the committee showed that efforts had been made early in the year to arrange with American-flag operators with suitable vessels to handle the movement of coal, but the one company which has such a vessel and has carried the coal in the past, was not able to carry the movement this year.

The House made inquiry of the various American shipping associations and the Association of American Railroads to determine whether there was objection to the bill. The railroads expressed no objection, in view of the fact that movement had been traditionally waterborne. In the House, the shipping associations stated their opposition to the principle embodied in the bill as introduced, and recommended that if it should be acted upon, it should be narrowly restricted to take care of the particular hardship involved. Your committee concurs in the view expressed by the Lake Carriers' Association that the suspension of the coastwise laws should not be encouraged, since it would be a deterrent in the building of a strong American-flag merchant marine in the domestic trades.

For the special reasons existing in this particular situation, your committee unanimously recommends the enactment of this bill.

The departmental reports received by the House are as follows:

TREASURY DEPARTMENT,
Washington, May 28, 1956.

Hon. HERBERT C. BONNER,
Chairman, Committee on Merchant Marine and Fisheries,
House Office Building, Washington, D. C.

MY DEAR MR. CHAIRMAN: Reference is made to your request of March 14, 1956, for the views of this Department on H. R. 9874, a bill to authorize Canadian vessels to be employed in the coastwsie transportation of coal to Ogdensburg, N. Y.

The proposed legislation would permit vessels of Canadian registry to transport coal to Ogdensburg, N. Y., from other points in the United States on the Great Lakes on their connecting or tributary waters under annual permits issued by this Department notwithstanding the prohibition against such use contained in section 27 of the Merchant Marine Act, 1920, as amended.

Throughout World War II, a shortage of qualified American vessels made it necessary to employ Canadian vessels to transport coal coastwise in order to insure continuous winter supplies for the use of the St. Lawrence State Hospital, a mental institution of the State of New York. This was accomplished under the Department's wartime waiver authority which expired in 1947. Since that time a succession of Canadian vessels have transported coal from other United States points to Ogdensburg. Section 5 of the act of June 30, 1950 (Public Law 591, 81st Cong.) gave congressional sanction to use Canadian vessels in 1950. The supplier has plead consistently that the violations were occasioned by the lack of qualified American bottoms.

While substantial relief has been granted to date from forfeiture penalties assessed against the coal cargoes, the Department is of the view and has so informed the supplier that continued leniency may not be granted without creating an exception to the coastwise laws by administrative action. The necessity for a congressional determination of policy in the light of all the facts is thus apparent.

If the bill is enacted as written, the Department proposes to give public notice to American vessel operators before any annual permit is issued. From an administrative point of view, the Department has no objection to the bill.

The Department has been advised by the Bureau of the Budget that there is no objection to the submission of this report to your committee.

Very truly yours,

DAVID W. KENDALL,
Acting Secretary of the Treasury.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D. C., May 23, 1956.

Hon. HERBERT C. BONNER,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives, Washington, D. C.

MY DEAR MR. BONNER: This responds to your request for the views of this Department on H. R. 9874, a bill to authorize Canadian vessels to be employed in the coastwise transportation of coal to Ogdensburg, N. Y.

We recommend that the bill be enacted.

Section 27 of the act of June 5, 1920 (41 Stat. 999), as amended (46 U. S. C., sec. 883), prohibits, in general, the transportation of goods over water between points in the United States in vessels other than those built in the United States and documented under the laws of the United States. H. R. 9874 would provide that, notwithstanding this general prohibition, the Secretary of the Treasury, or his designee, be permitted to issue permits to Canadian vessels to transport coal from points in the United States on the Great Lakes, or on their connecting or tributary waters, to Odgensburg, N. Y. This authority could be utilized until vessels of the United States shall be available for such transportation.

We are informed that the number of small-draft vessels of United States registry available at the present time for the movement of coal by water to the Ogdensburg, N. Y., area is limited and is insufficient to meet the current demand for transportation facilities. The utilization of Canadian vessels would aid in maintaining a regular movement of coal, which would be of material benefit to producers and consumers alike. Accordingly, enactment of H. R. 9874 would appear to be desirable.

The Bureau of the Budget has advised that there is no objection to the submission of this report to your committee.

Sincerely yours,

FRED G. AANDAHL,
Assistant Secretary of the Interior.

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THE SECRETARY OF COMMERCE,
Washington, June 15, 1956.

Hon. HERBERT C. BONNER,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives, Washington, D. C.

DEAR MR. CHAIRMAN: This letter is in reply to your request of March 14, 1956, for the views of this Department on H. R. 9874, a bill to authorize Canadian vessels to be employed in the coastwise transportation of coal to Ogdensburg, N. Y.

This bill would authorize the Secretary of the Treasury, or his designee, to issue annual permits to Canadian vessels to transport coal to Ogdensburg, N. Y., from other points in the United States on the Great Lakes or their connecting waters, until such time as United States vessels shall be available for that purpose. Section 27 of the Merchant Marine Act, 1920, as amended (46 U. S. C. 883), prohibits the transportation of merchandise by water, or by land and water between points in the United States including Territories and possessions embraced within the coastwise laws, except in domestic built and documented vessels.

Unless it can be established to the satisfaction of the Congress that the prevailing situation in regard to the transportation of coal to Ogdensburg, N. Y., justifies the enactment of such legislation, this Department would recommend against enactment of H. R. 9874. In the event that sufficient justification for such a waiver is determined to exist this Department would recommend that such legislation be enacted on a temporary basis only.

Statistics relative to yearly lakewise receipts of coal at Ogdensburg for the period from 1950 through 1954 show a general decrease from about 101,000 tons to about 46,000 tons. Statistics are not available for the 1955 season, nor is the quantity that is expected to be handled in the coming 1956 season indicated. If the decrease that occurred during 1950–54 should continue, the need for carrying capacity would be substantially reduced.

The protective policy which restricts coastwise trade to United States domestic-built and citizen-owned vessels is so basic a legislative principle in the merchant-marine laws that the Department of Commerce considers that such a broad general waiver of existing law with administrative discretion should not be approved unless there is clear necessity shown, and United States-flag vessels cannot supply the needed transportation. No such administrative waivers have been authorized, except under wartime conditions, and then only for limited periods of time.

In the event that the prevailing situation justifies a waiver of the coastwise laws, this Department would interpose no objection to enactment of H. R. 9874, if amended to provide for a waiver during the current season.

We have been advised by the Bureau of the Budget that it would interpose no objection to the submission of this report to your committee.

Sincerely yours,

WALTER WILLIAMS,
Acting Secretary of Commerce.

DEPARTMENT OF THE NAVY,
OFFICE OF THE JUDGE ADVOCATE GENERAL,
Washington, D. C., May 25, 1956.

Hon. HERBERT C. BONNER,
Chairman, Comm ttee on Merchant Marine and Fisheries,
House of Representatives, Washington, D. C.

MY DEAR MR. CHAIRMAN: Your request for comment on H. R. 9874, a bill to authorize Canadian vessels to be employed in the coastwise transportation of coal to Ogdensburg, N. Y., has been assigned to this Department by the Secretary of Defense for the preparation of a report thereon expressing the views of the Department of Defense.

This bill would authorize Canadian vessels to be employed in the coastwise shipment of coal to Ogdensburg, N. Y. At the present time and for the foreseeable future, considerable difficulty is expected in the movement and shipment of coal by vessel to this port. It is understood from one large coal supplier that United States-flag vessels required for shipment to Ogdensburg are presently unavailable. Facilities at this port require self-unloading vessels of a maximum displacement of about 4,000 tons. The only such vessels available are under the Canadian flag.

However, since there are no military requirements for coal in this area, the Department of the Navy, on behalf of the Department of Defense, refrains from further comment or recommendation on H. R. 9874.

This report has been coordinated with the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Department of the Navy has been advised by the Bureau of the Budget that there would be no objection to the submission of this report to the Congress.

Sincerely yours,

W. R. SHEELEY,
Rear Admiral, USN,
Acting Judge Advocate General of the Navy
(For the Secretary of the Navy).

There are no changes in existing law.

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Calendar No. 2747

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2700

REQUIRING CERTAIN SAFETY DEVICES ON HOUSEHOLD REFRIGERATORS

JULY 20 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. MAGNUSON, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany H. R. 11969]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 11969) to require certain safety devices on household refrigerators shipped in interstate commerce, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF LEGISLATION

The bill would make it unlawful for any person to introduce or deliver for introduction into interstate commerce any household refrigerator (manufactured 1 year and 90 days or more after the date of enactment of this act) unless such refrigerator is equipped with a device which will enable the door thereof to be opened easily from the inside. The purpose of the legislation is to minimize, if not entirely eliminate, the number of tragic deaths of innocent children entrapped inside refrigerators, which have been occurring with increasing frequency in recent years.

NEED FOR LEGISLATION

From time to time the people of this Nation have been shocked to read in the newspapers stories of children who were entrapped inside refrigerators and iceboxes and were suffocated to death. In 1952, 14 such deaths were recorded, and in 1953, 26 deaths were recorded. From January 1954 to June 1956, the records show that there were at least 33 incidents of suffocation in household refrigerators, involving 54 children, of whom 39 died. With the number of such deaths increasing each year, it is imperative that the Congress enact legislation to minimize these deaths insofar as possible.

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The legislation here proposed to attack this problem is to require that all household refrigerators hereafter manufactured and shipped in interstate commerce shall be equipped with an effective device which will enable a child trapped inside to open the door.

Some opposition has been expressed to this legislation on the ground that most of these tragic accidents have occurred in abandoned iceboxes. This fact does not lessen the urgency of this legislation because the problem is not confined to abandoned iceboxes. There are instances where children have suffocated in refrigerators which were being defrosted or otherwise in use. Furthermore, the refrigerators that are being manufactured today may be the coffins of innocent children 15 years hence when these refrigerators will be abandoned. The Congress should not fail to act now because the effect of this legislation cannot be felt immediately.

No doubt publicity campaigns to make parents alert to the dangers of deaths in refrigerators are helpful, but they are inadequate to meet the problem. Likewise, State laws and local ordinances forbidding the abandonment of these potential death traps, without first removing the door or the door latch, are inadequate. The bill here being reported is essential to protect the lives of the innocent children of this Nation.

STANDARDS FOR SAFETY DEVICES

While many of the new refrigerators being sold today already are equipped with some type of safety device which will enable one to open the door from the inside, the bill does not prescribe any one device. Rather, it directs the Secretary of Commerce to prescribe commercial standards for such devices. The National Bureau of Standards of the Department of Commerce, with the cooperation of the refrigerator manufacturing industry, has been engaged for some time in experiments to determine the basic criteria of reasonable safety which manufacturers could incorporate in the design of their refrigerators for preventing the suffocation of children entrapped in refrigerators.

The committee is confident that satisfactory criteria can be developed which will be effective in saving the lives of children and yet not work undue hardship on the refrigerator manufacturing industry. In fact, 6 months ago the Department of Commerce advised a subcommittee of the House committee that substantial accord had already been reached between representatives of the refrigerator manufacturing industry and the National Bureau of Standards with respect to the criteria for such safety devices.

SECTION-BY-SECTION EXPLANATION OF THE COMMITTEE AMENDMENT

Section 1 would make it unlawful for any person to introduce or deliver for introduction into interstate commerce any household refrigerator manufactured 1 year and 90 days after the date of enactment of this act, or thereafter, unless such refrigerator is equipped with a device which will enable a person entrapped inside to open the door easily.

Section 2 provides a penalty for violation of section 1 of this act. Upon conviction, a person shall be subject to imprisonment for not more than 1 year or a fine of not more than $1,000, or both.

Section 3 directs the Secretary of Commerce to prescribe and publish in the Federal Register commercial standards for such devices, containing the basic criteria of reasonable safety which manufacturers of household refrigerators shall incorporate in the design and manufacture of such refrigerators for enabling the doors thereof to be opened easily by a person entrapped inside. These standards must be initially prescribed and published not later than 90 days after the enactment of this act. They could subsequently be modified in the light of experience and the future development of new or improved devices.

Section 4 contains a definition of "interstate commerce."

Section 5 provides for the effective date of this act.

HEARINGS

Hearings on this legislation were held in the House on July 20 and 21, 1955, and May 28, 1956. These hearings were on H. R. 2181. H. R. 11969 was introduced as a clean bill to achieve the objectives sought by H. R. 2181.

The reports of the executive departments and agencies on H. R. 2181 to the House committee are set forth in the appendix to this report.

APPENDIX

INTERSTATE COMMERCE COMMISSION,
Washington, February 17, 1955.

Hon. J. PERCY PRIEST,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D. C.

DEAR CHAIRMAN PRIEST: Your letter of February 5, 1955, addressed to the Chairman of the Commission and requesting comments on a bill (H. R. 2181) introduced by Congressman Roberts, to require safety closing devices on the doors of household refrigerators shipped in interstate commerce, has been referred to our committee on legislation and rules. After careful consideration by that committee, I am authorized to submit the following comments in its behalf:

This bill would make it unlawful for any person to introduce or deliver for introduction into interstate commerce any household refrigerator not equipped with a door-closing device which enables it to be opened from the inside.

The broad objective of the bill is not related to the jurisdiction of the Interstate Commerce Commission, and for that reason we are not in a position to express an opinion with respect to its merits. Our interest in a measure of this kind extends only to its possible effect on agencies of transportation subject to our regulatory powers.

Since the prohibition of the bill would apply only to the introduction or delivery for introduction into interstate commerce of such refrigerators, and would not cover the receipt and transportation thereof, it is presumed that the bill is not intended to be applicable to carriers subject to the Interstate Commerce Act, which are usually specifically exempted in such measures. We believe, however, that under certain circumstances interstate carriers might be considered as coming within

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the bill's prohibition. We suggest, therefore, that a new provision be added, either as a proviso at the end of the first section or as a new section, providing that the act shall not apply to any common carrier, contract carrier, or freight forwarded with respect to any such household refrigerator introduced or delivered for introduction in interstate commerce in the ordinary course of business.

Respectfully submitted,

RICHARD F. MITCHELL.
HOWARD G. FREAS.
KENNETH H. TUGGLE,
Chairman, Committee on Legislation and Rules.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D. C., February 23, 1955.

Hon. J. PERCY PRIEST,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, New House Office Building,
Washington, D. C.

MY DEAR MR. CHAIRMAN: This will acknowledge your letter of February 5, 1955, requesting the views of this office with respect to H. R. 2181, a bill to require safety closing devices on the doors of household refrigerators shipped in interstate commerce.

The Bureau of the Budget believes that improvement of safety closing devices on the doors of household refrigerators could be handled adequately without Federal legislation. As for abandoned refrigerators, local police action can effectively handle the problem. The Bureau, therefore, recommends against enactment of H. R. 2181.

Sincerely yours,

HAROLD PEARSON,
Assistant Director.

DEPARTMENT OF JUSTICE,
March 2, 1955.

Hon. J. PERCY PRIEST,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D. C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice concerning the bill (H. R. 2181) to require safety closing devices on the doors of household refrigerators shipped in interstate commerce.

The bill would make it unlawful to introduce or deliver for introduction into interstate commerce any household refrigerator unless the door of such refrigerator is equipped with a door-closing device enabling it to be opened from the inside. Violations of the measure would be punishable by imprisonment for not more than 1 year or fine of not more than $1,000, or both.

Whether the bill should be enacted involves a question of policy concerning which this Department prefers to make no recommendation. It is believed, however, that the bill should be clarified in certain respects.

There would appear to be some question as to the advisability of using the term "door-closing device" since such a device ordinarily

relates to the closing of a door, rather than to a safety device on the inside which would enable the door to be easily opened. It would seem preferable to use the term "latch" or "inside latch."

Also, it is suggested that the bill should contain a definition of the term "household refrigerator."

The Bureau of the Budget has advised that there would be no objection to the submission of this report.

Sincerely,

WILLIAM P. ROGERS,
Deputy Attorney General.

THE SECRETARY OF COMMERCE,
Washington, July 18, 1955.

Hon. J. PERCY PRIEST,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D. C.

DEAR MR. CHAIRMAN: This is in reply to your letter dated February 5, 1955, requesting the views of this Department with respect to H. R. 2181, a bill to require safety closing devices on the doors of household refrigerators shipped in interstate commerce.

We recommend against enactment of this bill.

This bill is similar in purpose to S. 2876 and S. 2891 of the 83d Congress, which were the subject of hearings before a subcommittee of the Senate Committee on Interstate and Foreign Commerce during the preceding session. As a result of those hearings Senate Resolution 272 was introduced, which contained findings, inter alia, that the hearings failed to establish the existence of a device which would provide a proper seal for a modern refrigerator door and which would also allow the door to be opened easily by a small child. It was concluded that it would seem wise for Congress to await the invention of such a device before enacting legislation on the subject. This resolution was adopted by the Senate on July 7, 1954.

We know of no change in the state of the art which would warrant a different conclusion from that contained in Senate Resolution 272.

In addition, we believe the bill if enacted into law would give rise to certain other problems. For example, household refrigerators are not defined, and might or might not be taken to include home-freezers to which they bear a resemblance. The problem of providing adequate closures for freezers and refrigerators appears to be somewhat different, and there seems to be no assurance that a safety device, if developed, which would perform satisfactorily on refrigerators would do the same for freezers. In view of the fact that freezers represent a comparable hazard to small children we think it would be unfortunate if an impression were created that all new appliances of this general class were equipped with safety devices. On the other hand, in view of the existence of the mechanical problem we would also consider it unsatisfactory if a conclusion were reached that the two types of appliances were both subject to the bill.

We have been advised by the Bureau of the Budget that it would interpose no objection to the submission of this letter.

Sincerely yours,

SINCLAIR WEEKS,
Secretary of Commerce.

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HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D. C., July 30, 1955.

Hon. SINCLAIR WEEKS,
Secretary of Commerce,
Department of Commerce, Washington, D. C.

DEAR MR. SECRETARY: The Special Subcommittee on Health and Science of the Committee on Interstate and Foreign Commerce has voted to report to the entire committee H. R. 2181, introduced by our colleague Mr. Roberts, of Alabama, with the recommendation that the bill be favorably reported to the House. This bill would require the installation of safety devices on household refrigerators shipped in interstate commerce so as to enable a person to open the doors from the inside. Its purpose is to reduce, if not eliminate entirely, the number of tragic deaths of children caught inside refrigerators which events have been occurring with increasing frequency.

Hearings on H. R. 2181 were held on July 20 and 21, 1955. Mr. Carl F. Oeschle, Deputy Assistant Secretary for Domestic Affairs of the Department of Commerce, and several industry witnesses testified with respect to this bill. The subcommittee was so favorably impressed with the testimony of the industry witnesses, to the effect that every effort was being made to perfect a satisfactory safety device that would enable a person to open a refrigerator or icebox from the inside, that it has decided not to press for entire committee action on this bill until the next session of the Congress.

However, the subcommittee has expressed the earnest desire that during the adjournment period, all parties concerned shall work cooperatively with the National Bureau of Standards in a determined effort to obtain a solution to this problem in order to prevent a needless loss of life of the children of this Nation. The subcommittee expects that the industry and the National Bureau of Standards will be ready to submit a progress report in January 1956, with their recommendation for further action. It is my understanding that Mr. Leslie D. Price, manager, engineering and safety regulations department of the National Electrical Manufacturers Association of 155 East 44th Street, New York, N. Y., will serve as contact man for the industry concerned with this problem.

Our committee trusts that you will give this subject your active support.

Sincerely yours,

F. ERTEL CARLYLE,
Chairman, Special Subcommittee on Health and Science.

DEPARTMENT OF COMMERCE,
OFFICE OF THE GENERAL COUNSEL,
Washington, D. C., December 30, 1955.

Hon. F. ERTEL CARLYLE,
Chairman, Special Subcommittee on Health and Science,
Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D. C.

DEAR MR. CHAIRMAN: This letter is in further reply to your letter of July 30, 1955, to the Secretary of Commerce. In that letter you describe the active interest of the Committee on Interstate and

Foreign Commerce, and of the Special Subcommittee on Health and Science, in action necessary to minimize the hazard to small children from confinement in iceboxes and refrigerators.

As is indicated in your letter, the Department of Commerce, through its National Bureau of Standards, is assisting industry in the development of criteria to which devices allowing escape of confined children should conform.

In accordance with your letter and with suggestions made by your special subcommittee during the hearings on H. R. 2181 in late July 1955, officials of NBS and of the National Electrical Manufacturers' Association discussed and undertook independent consideration of the problem, subsequently conferred in Washington, and have, as a result, jointly drafted a set of criteria establishing minimum performances of devices which will minimize the risk created by these cooling devices.

The Children's Bureau of the Department of Health, Education, and Welfare has cooperated in a study to determine the force which children between the ages of 2 to 5 could exert under conditions such as would face a child confined to an icebox. Such figures were not available elsewhere.

Substantial accord has been reached between representatives of industry and of NBS with respect to the criteria. It is expected that tentative criteria will be issued either today or tomorrow to assure that interested parties may comment thereon. This phase of development is most important as it will enable anyone with an interest in the field to point out if the criteria are unwarrantedly narrow or so restrictive as to preclude devices which may be proved effective in accomplishing our purposes.

It was indicated in your letter of July 30, 1955, that a progress report was expected in January 1956. Please consider this letter as such a report. It is expected that NBS and NEMA will, in the near future, prepare a joint report of action taken, together with documents developed cooperatively, which will be forwarded to you at that time.

Sincerely yours,

HAROLD B. CORWIN,
Deputy General Counsel.

There are no changes in existing law.

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Calendar No. 2748

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2701

EXPLORATORY RESEARCH IN CONNECTION WITH CONTROL OF SEA NETTLES AND JELLYFISH

JULY 20 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. BUTLER, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany S. 3955]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (S. 3955) to authorize research by the Fish and Wildlife Service to determine methods of, and to provide for grants to the States to assist approved research or other projects for, control or extermination of sea nettles and jellyfish in marine waters of the United States, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

It was the purpose of the bill as introduced to provide for research, and for technical and financial assistance to the States through the Fish and Wildlife Service, in connection with infestations of sea nettles and jellyfish in the various States.

Grants were also to be made to the States on a matching basis for research in connection with the control or extermination of sea nettles and jellyfish.

The amount of $150,000 a year was authorized to be appropriated each year, beginning with the fiscal year commencing July 1, 1956, and the authority under the bill would terminate on July 1, 1961.

The Department of the Interior indicated that it did not favor the authorization of $150,000 a year, but would favor exploratory research terminating on July 1, 1961.

The bill has been amended in accordance with the Department's suggestions, which are set out below.

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DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D. C., July 18, 1956.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Interstate and Foreign Commerce,
United States Senate, Washington, D. C.

MY DEAR SENATOR MAGNUSON: This is in response to your request for a report on S. 3955, which is a bill to authorize research by the Fish and Wildlife Service to determine methods of, and to provide for grants to the States to assist approved research or other projects for, control or extermination of sea nettles and jellyfish in marine waters of the United States.

We recommend that S. 3955 be enacted if amended as suggested in this report.

Jellyfish or sea nettles are soft gelatinous marine animals which are widely distributed throughout the world from the cold polar areas to the warm waters of the tropics. They are free-swimming animals although their powers of locomotion are limited. The movements and distribution of jellyfish are generally dependent upon the ocean currents and tides. As these animals are carried by currents and tides, they often become congregated in areas where they create a nuisance to bathers and other types of recreation. Some forms of jellyfish contain nettle cells which cause irritating and sometimes severe burns on bathers. In such instances, the presence of these animals is most undesirable.

Control of jellyfish is being accomplished to some degree by fencing off beaches with netting. However, fencing as a control measure has very definite limitations. Costs of installation and maintenance of fences are high, and unusually stormy weather can cause complete destruction of the installation. Also, jellyfish may become matted on the netting and must be removed periodically or the fence will wash out. Because jellyfish are fragile, they often break up into small pieces, pass through the net and contaminate the waters. By reason of these limitations, only certain areas with some protection from the open ocean can be effectively fenced for jellyfish control.

Similarly, although there is possibility of chemical control, this system presents limitations which make the method undesirable. Chemicals which would kill jellyfish most likely would have adverse effects on other marine life and make the treated waters undesirable for bathing and other types of recreation. The effective duration of such treatment would be, at the most, only from the time of treatment until a change of tide. Even though a jellyfish is dead, its presence in the water is still undesirable.

Therefore, although we are in general accord with the programs outlined by S. 3955 we do not favor the authorization of $150,000 per annum to undertake this extensive research at this time.

A limited field for research which might have prospects of beneficial results would be in the field of development of improved types of fences or other control devices and experimentation in their installation and operation. For these reasons we suggest that S. 3955 be amended to permit exploratory research to determine the feasibility of control studies and the extent to which further research might be justified.

In view of the recommendations above we also suggest that section 3 be deleted from the bill and that all of section 4 following the words "July 1, 1961", be similarly deleted. A further technical amendment is necessary in order that the provisions of S. 3955 will comply with Reorganization Plan No. 3 of 1950. In order to conform with the intent and purpose of that plan the words "through the Fish and Wildlife Service" appearing on page 2, at lines 3 and 4, should be deleted.

The Bureau of the Budget has advised us that there is no objection to the submission of this report to your committee.

Sincerely yours,

WESLEY A. D'EWART,
Assistant Secretary of the Interior.

There are no changes in existing law.

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Calendar No. 2749

84TH CONGRESS, 2d Session — SENATE — REPORT No. 2702

NATIONAL FARM-CITY WEEK

JULY 20 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. O'MAHONEY, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. J. Res. 317]

The Committee on the Judiciary, to which was referred the joint resolution (H. J. Res. 317), designating the week of November 16–22, 1956, as National Farm-City Week, having considered the same, reports favorably thereon, without amendment, and recommends that the resolution do pass.

PURPOSE

The purpose of the proposed resolution is to designate the week of November 16–22, 1956, inclusive, as National Farm-City Week.

STATEMENT

The designation of a week as National Farm-City Week will enable the people of the United States to have a broader understanding of agriculture and its effect on all citizens of our country. This week will make available a definite time for the recognition of the great contribution American farm families have made to our civilization. It is hoped that a nationwide observance such as herein proposed will lead to a greater understanding by urban people of the contributions and problems of rural people and reciprocally a greater understanding by rural people of town and city life.

The Secretary of Agriculture, on behalf of the Department of Agriculture, has endorsed the idea and objectives of a national week such as herein proposed. The Secretary is of the view that such a

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week could be of genuine service in bringing about better mutual understanding between farm and city people.

The committee is of the opinion that it is fitting that Congress lend encouragement to this undertaking in understanding between rural and city people. Accordingly, the committee recommends favorable consideration of House Joint Resolution 317, without amendment.

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Calendar No. 2750

84TH CONGRESS, 2d Session } SENATE { REPORT No. 2703

NATIONAL MOTTO

JULY 20 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. O'MAHONEY, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. J. Res. 396]

The Committee on the Judiciary, to which was referred the joint resolution (H. J. Res. 396), to establish a national motto of the United States, having considered the same, reports favorably thereon without amendment and recommends that the joint resolution be agreed to.

PURPOSE

The purpose of the joint resolution is to establish "In God we trust" as the national motto of the United States.

STATEMENT

At the present time the United States has no national motto. The committee deems it most appropriate that "In God we trust" be so designated as our national motto.

The phrase "In God we trust" has received official recognition for many years. It was authorized to be placed on certain coins by the act of March 3, 1865 (13 Stat. 518). Further permissive authorization for inscribing "In God we trust" on coins was given in the Coinage Act of February 12, 1873 (17 Stat. 427). The first mandatory requirement for the use of this motto on certain coins was in the act of May 18, 1908 (35 Stat. 164). Last year Public Law 140 was enacted by the Congress making the use of "In God we trust" mandatory on all currency and coins of the United States.

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Further official recognition of this motto was given by the adoption of the Star-Spangled Banner as our national anthem. One stanza of our national anthem is as follows:

"O, thus be it ever when freemen shall stand
Between their lov'd home and the war's desolation!
Blest with vict'ry and peace may the heav'n rescued land
Praise the power that hath made and preserved us a nation!
Then conquer we must when our cause it is just,
And this be our motto—'In God is our trust.'
And the Star-Spangled Banner in triumph shall wave
O'er the land of the free and the home of the brave."

In view of these words in our national anthem, it is clear that "In God we trust" has a strong claim as our national motto.

It will be of great spiritual and psychological value to our country to have a clearly designated national motto of inspirational quality in plain, popular accepted English. The committee recognizes that the phrase "E pluribus unum" has also received wide usage in the United States. However, the committee considers "In God we trust" a superior and more acceptable motto for the United States. Accordingly, the committee recommends favorable consideration of House Joint Resolution 396.

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Calendar No. 2751

84TH CONGRESS, 2d Session } SENATE { REPORT No. 2704

PATENTS EXTENSION

JULY 20 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. O'MAHONEY, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 2128]

The Committee on the Judiciary, to which was referred the bill (H. R. 2128) to authorize the extension of patents covering inventions whose practice was prevented or curtailed during certain emergency periods by service of the patent owner in the Armed Forces or by production controls, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to authorize the extension of the terms of certain patents for such periods as may be required in order to secure to the owners of such patents the reasonably unrestricted exercise of the exclusive rights granted thereby for a total period equivalent to the time where, during World War II or the Korean conflict, the normal use of development of such patents was prevented or substantially curtailed—

(1) by reason of the service of the owner or his spouse in the Armed Forces of the United States; or

(2) by reason of any Government stop order prohibiting or limiting the production or use of articles or processes; or

(3) by reason of such owners having granted licenses, either royalty free or for nominal royalty, to the United States or to manufacturers furnishing goods to the United States, in order to promote any program for national defense since September 1, 1939.

STATEMENT

This legislation was the subject of extensive hearings on May 4, 1956, and June 13, 1956, and, as a result of the action of the House and the testimony presented at the hearings, this legislation is recom-

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mended. It might be pointed out, however, that there was opposition to the proposed legislation, and House Report No. 1297 on H. R. 2128 contains a minority report thereon.

The committee believes that this legislation is meritorious and that to amend the bill at this time would result in the loss of any legislation on this subject matter. The committee further believes that under the terms of the bill it will take several months to put this program in full operation and that by that time the 85th Congress will have convened or shortly thereafter will be in session, and if, in the administration of this legislation, it appears that any question is of substantial merit, then the Congress may consider amending the act to cover such situations as may appear to be needed. The committee intends to request from the agencies involved at the beginning of the 85th Congress a report on the results of the administration of this act. The committee feels, however, that this legislation should be passed, so that the program designed to aid these patent holders may go forward without delay.

The House report sets forth the arguments, reasons, and justification for this legislation, and is set forth below as follows:

THE BASIS AND NEED FOR THE LEGISLATION

> The Constitution of the United States provides: The Congress shall have power * * * to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries, * * * (art. I, sec. VIII, clause 8)."
>
> To give effect to the constitutional purpose of promoting "the progress of science and useful arts" by encouraging inventions and their immediate disclosure as well as their ultimate dedication to the public, Congress long ago enacted laws which secured to inventors the exclusive right to the full use and control of their inventions for a period of 17 years. In essence, the rights granted to an inventor by the issuance of a patent under such laws are analogous to those which arise out of a simple contract. The Government, in exchange for the disclosure of inventions and their dedication by the owner to the public, solemnly undertakes to secure to inventors exclusive rights to the use of their inventions for a period of 17 years. Having induced inventors to make such disclosures under the provisions of our patent laws and having undertaken to secure to them the exclusive rights of exploitation for a period of 17 years, the Government has found itself in a position where in effect it has been forced to abridge the special obligations it assumed by the issuance of such patents, due to such national emergencies as World War II and the Korean conflict.
>
> The restrictions on the use of patents which were caused by those emergencies took several forms. The induction or enlistment of owners of patents into the armed services resulted in one form of curtailment of their rights to promote and exploit their inventions. Similarly, the issuance by Government agencies of production stop orders and restric-

tions in the use of machines, articles, materials, or processes may have substantially curtailed or even prevented the normal use, promotion, or development of patented inventions. Still other situations arose where the owners of patents furthered the interests of the United States and materially assisted in promoting the war effort or defense programs by granting licenses to the Government to use their patents without payment of royalty or for a nominal royalty, even though the granting of such licenses prevented or substantially curtailed the normal use or exploitation of the patents.

In 1950, the 81st Congress enacted legislation for the extension of the terms of patents held by veterans of World War II (act of June 30, 1950, Public Law 598, 81st Cong.). In the 82d Congress, that act was broadened to permit an application for extension to be filed where either the veteran alone or he and his spouse owned the patent (act of July 1, 1952, Public Law 437, 82d Cong.). The time for filing applications for extensions of patents under this act expired January 1, 1953.

These were not the first acts dealing with patent extensions for war veterans. The act of May 31, 1928, provided similar patent extension privileges to veterans of World War I.

"EXCLUSIVE RIGHTS" OF PATENTEES

One of the major issues before the committee was whether the Government, by imposing wartime controls, breached its agreement to secure to patent owners the exclusive right to the full use and control over their inventions for a period of 17 years. The argument was urged that while the patent owner may have been prevented from using a patented invention because of inability to obtain materials, etc., he was nevertheless not prevented by Government production controls from being able to exclude others from infringing on his patent rights.

It is true, of course, that the only statutory grant a patentee receives by the issuance of a patent is the right to exclude others. However, the right to exclude others includes, among other things, the right on the part of the patent owner to waive the exclusion and to grant a license on his patent to others, or to assign or sell the patent to others. If Government stop orders prohibit the using of the patent or prevent the exploitation, promotion, or development of the patent so that it cannot be licensed to others, then it interferes with the patentee's exclusive use.

In addition, while a patentee has a statutory grant to exclude others, he also has, coupled with that grant, the common-law right to make, use, and exploit his invention as he sees fit. These two rights go together and, for all practical purposes, the right of exclusive use cannot be enjoyed save with the common-law right. The late Mr. Chief Justice Taft aptly stated the relationship in *Crown Co.* v. *Nye Tool Works* (261 U. S. 24, 36):

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"It is the fact that the patentee has invented or discovered something useful and thus has the common-law right to make, use, and vend it himself which induces the Government to clothe him with power to exclude everyone else from making, using, or vending it. In other words, the patent confers on such common-law right the incident of exclusive enjoyment and it is the common-law right with this incident which a patentee or an assignee must have. That is the implication of the descriptive words of the grant 'the exclusive right to make, use, and vend the invention.' The Government is not granting the common-law right to make, use, and vend, but it is granting the incident of exclusive ownership of that common-law right, which cannot be enjoyed save with the common-law right."

An inventor has no legal obligation to reveal his secrets to the world. However, in order to induce him to make known his discovery so that the Nation as a whole may profit thereby, the Government in exchange for his public disclosure and dedication agrees to secure to him the exclusive use of his invention for a full period of 17 years. That is the inducement which the Government has long been offering by law and upon which inventors have been led to rely.

Since the public emergencies of World War II and the Korean conflict forced the Government to abridge the special obligations it assumed by the issuance of patents, it is the considered opinion of the committee that, in order to make good on its original undertaking, the Government extend the term of such patents for periods corresponding to that during which the normal use or development of the patent was prevented or substantially curtailed.

"CLASS LEGISLATION"

Another argument raised against patent extension legislation is that such legislation would single out a particular group for benefits, and as such is inequitable and unfair to the many citizens who inevitably suffered loss of one sort or another during World War II or the national emergency and who were given no compensation therefor. Such an argument, it is believed, if carried to a logical conclusion, would preclude the granting of any relief for the taking of property or for other losses. The United States Government, of course, could not provide or attempt to provide relief for all of the casualties of war, financial or otherwise. This fact, however, has not prevented the Congress from granting patent extensions to World War veterans, both after World War I and World War II, nor has it prevented it from making provision for relief for those, having direct contractual relations with the Government, whose position was adversely affected by governmental action. This is exemplified by the statutory provisions for the termination of war contracts. (See, generally, title 41, U. S. C.—Public Contracts.)

Two of the principal examples cited in support of the argument against patent extensions are filling stations, which because of Government controls, could not obtain gasoline, and automobile dealers, who could not secure cars to sell. While such classes of people suffered from the same causes as did patent owners, it must be remembered, however, that unlike patentees, the Government did not agree to secure these persons in any exclusive right, nor did the Government limit the terms of their activities to 17 years. When the actual hostilities of World War II and the Korean conflict were over, fillig-station owners or lessees and automobile dealers did not lose their businesses, rather, if they so desired, they could continue and expand their enterprises. They were not required, as is the patentee, at the end of a 17-year period, or at the end of any national emergency, as the case might be, to dedicate their businesses to the public welfare forever.

ESTIMATED APPLICATIONS

Upon request, a representative of the Patent Office furnished the committee with the following statistical data regarding the number of applications for extensions which could reasonably be expected as a result of this legislation. Generally, this legislation would benefit three groups: Section 1 (a) (1) relating to veterans and their spouses, section 1 (a) (2) relating to patents whose use was curtailed because of Government production controls, and section 1 (a) (3) relating to patent owners who granted licenses on a royalty-free basis or at a nominal royalty. The probable number of applications involved, according to the data which follows, would not run into very many thousands.

Section 1 (a) (1)—veterans and their spouses—number of cases would be negligible. Laws were enacted in the 81st and 82d Congresses to take care of World War II veterans and there were less than 160 applications under those acts. The only veterans likely to apply under this legislation are Korean veterans.

Section 1 (a) (2)—patents affected by Government stop orders: There is no accurate way of estimating the number of applications which would be submitted under this category. Under British patent extension law, which is more liberal, 3½ percent of the patents which were eligible for extension applied for such extensions. Using the British 3½ percent as a basis, and applying it to the 400,000 United States patents which are presently eligible for extension merely from the standpoint of the dates involved, the United States Patent Office estimates that there could be about 13,000 applications in this class. This is a top estimate.

Section 1 (a) (3) licenses granted Government on royalty-free or nominal royalty basis: 600 specific patents were given to the Government under this category which have not expired. In addition 52 companies granted licenses to Government on all of the patents which they owned. No estimate of number of patents involved could be given.

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Also, the entire radio industry (125 companies) granted licenses to Government in certain designated categories of patents. No accurate estimate could be made on this group. The Patent Office representative estimated that applications under this subsection "would not be great—would not go into the thousands."

It should be remembered that any period of extension granted under this legislation would not speak from the date of this act or the date from which any extension is granted by the Patent Office; but rather from the date of expiration of the original term of the patent (sec. 1 (b) of this bill). This circumstance alone will virtually preclude any patent the original term of which expired prior to January 1, 1952. The greatest extent of curtailment a patent owner may suffer under this bill, exclusive of a patent owned by a veteran, is about 4 years. Most patents, of course, will be affected for shorter times, since Government stop orders were issued progressively from 1942 as the exigencies of the national emergency increased. An extension of the 4-year term added to a patent which expired January 1, 1952, would bring the patent owner up to January 1, 1956, and would yield him very little or nothing. It follows therefore, that, for practical beneficial purposes, only patents which expire well after January 1, 1952, are worth filing an extension for and then only where the 4-year period of curtailment can be shown.

ANALYSIS OF BILL

Section 1 (a) of the bill specifies the three conditions under which an application may be filed for an extension of the terms of a patent in accordance with the provisions of the proposed act.

In order to qualify for an extension, the applicant must have complied with 1 or more of the 3 conditions prescribed in subsection (a) during the applicable period of time designated in subsection (b).

Paragraph (1) requires that the applicant or applicants own solely or jointly with his spouse or their spouses the entire interest in the patent; that during the term of the patent he or they were performing honorable service on active duty in our armed services; and that such services prevented or substantially curtailed the use or exploitation of the patent.

Paragraph (2) prescribes that the normal use or development of the patented invention was prevented or substantially curtailed by an order of an agency of the Government prohibiting or limiting production or use of articles, materials, or processes.

Paragraph (3) provides that applications for patent extension may be filed by owners of patents who granted licenses, free of royalty or for a nominal royalty, to the United States or to suppliers to the United States, for the purpose of promoting any program for national defense since September 1, 1939, provided that the use of such patents materially assisted in the war effort or a national-defense program and that the

granting of such licenses prevented or substantially curtailed the normal use or promotion of the patented inventions.

Section 1 (b) sets forth the respective periods for which extensions of patents may be granted under the proposed act.

Paragraph (1) provides that in cases where the extension is granted to veterans on account of active service, the further term is to equal twice the length of active service in World War II or the Korean conflict, during which period of service his patent was in force. This provision is in effect identical with that contained in the act of June 30, 1950 (Public Law 598, 81st Cong.) which granted patent extensions to veterans of World War II under certain conditions. In fixing this period consideration was given to the time lost in the expectation of entering the service and in returning to private business following discharge from the service.

Paragraph (2) provides that where the ground for extension is based on Government stop orders, the period of extension shall equal the time in World War II or the Korean conflict during which the practice of the patented inventions was prevented or substantially curtailed.

Paragraph (3) prescribes that an extension under subsection 1 (a) (3) shall equal the period during which the initial license was in effect between September 2, 1945, and April 25, 1952, and between July 26, 1953, and the date of this act, on a royalty-free basis or for a nominal royalty, but in no event for a period greater than the normal use or development of the patent was prevented or substantially curtailed.

In paragraph (4) it is expressly provided that where two or more grounds for extension exist, the prescribed periods of extension are not to be cumulated, but the period of extension shall be determined under that paragraph which results in the longest extension.

Section 1 (c) offers a practical solution to the problem which arises where the ownership of a patent has been transferred from the veteran or individual who actually suffered the abridgement. In such instances an extension may be granted only by his joinder in the application. Thus, he is placed on an equal footing with the present owner in negotiating an equitable arrangement between them with respect to any extension.

In section 1 (d) are set forth the specific periods in World War II and the Korean conflict during which one or more of the required circumstances must have occurred in order to qualify a patent for extension.

For purposes of technical clarification, section 1 (e) provides that a reissue patent shall be considered to be the same patent as that which it supersedes.

Section 2 sets forth the procedures for processing applications for patent extension in the Patent Office; the form of the application; the published notice of its filing; the time within which a notice of opposition may be filed to the application and the form of such notice; the conduct of hearings

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thereon; and the maximum fees to be paid by the respective parties.

After consultation with representatives of the Patent Office, and in order to make the fees collected meet the costs of processing such applications in the Patent Office, the bill provides that the Commissioner shall fix the total fees (not exceeding $150) to be paid by each applicant and the total fees (not exceeding $50) to be paid by each opponent, the specific amount of such fees to be determined according to the work required and the estimated cost thereof to the Patent Office.

Section 3 requires, in general, that an application for extension must be filed within 1 year from the effective date of this act or within 1 year from the date of the applicant's honorable discharge from service if his application is based on such service.

Sections 4 and 5 pertain to the issuance of certificates of extension and the legal effect thereof.

Section 6 reserves to the United States a royalty-free right of use of extended patents during the period of extension, except where the owner of a patent was entitled to receive royalties for items furnished exclusively to and used exclusively by the United States.

Section 7 is designed to protect any vested rights which may be affected by an extension of the term of a patent. The provisions of this section follow closely those of section 4 (c) of the act of June 30, 1950 (Public Law 598, 81st Cong.)

Similarly, section 8 of the bill, pertaining to actions for infringement, follows section 4 (d) of the act of June 30, 1950.

Section 9 provides for an appeal to the United States Court of Customs and Patent Appeals.

REPORTS FROM GOVERNMENT DEPARTMENTS

Attached hereto and made a part of this report are communications from the Department of Commerce and the Department of Justice. It may be well to mention that at the hearing on this legislation, representatives from the Commerce Department in response to an inquiry as to whether the work contemplated in this legislation would place a heavy burden on the work of the Patent Office, stated that the bill was feasible of administration, and that the Patent Office and the Department of Commerce would interpose no objection to the bill, if the Congress so wished to legislate.

In addition to the reports submitted to the House Judiciary Committee and hereto attached, there is also attached a letter from the Small Business Administration, under date of June 26, 1956, to Hon. Joseph C. O'Mahoney, chairman of the Subcommittee on Patents. Trademarks, and Copyrights of the Senate Committee on the Judiciary, on H. R. 2128, together with the views of the Bureau of the Budget thereon.

THE SECRETARY OF COMMERCE,
Washington, March 8, 1955.

Hon. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.

DEAR MR. CHAIRMAN: This letter is in reply to your request for the views of the Department of Commerce with respect to H. R. 2128, a bill to authorize the extension of patents covering inventions whose practice was prevented or curtailed during certain emergency periods, by service of the patent owner in the Armed Forces or by production controls, and H. R. 3134, a bill for the same general purpose.

If it should be determined as a matter of policy by the Congress that H. R. 2128 should be enacted, the Department of Commerce would interpose no objection to such action.

We are, however, concerned with respect to certain administrative difficulties which may develop in connection with such a law. During the period covered, there were approximately 850,000 patents in effect. Of these approximately 450,000 would not be eligible for the benefits of the law because of their dates of expiration. The actual number of owners who would seek the benefit of the law is, of course, unknown but might be very large. All applications under the bill are required to be filed for processing within 1 year from enactment of the law and to be processed within 6 months after filing. Such action could, depending on the demands, present an extremely difficult and expensive administrative problem.

Consistent with Reorganization Plan No. 5 of 1950, the authority granted by H. R. 2128 should be placed in the Secretary of Commerce rather than the Commissioner of Patents. Adequate authority exists under the reorganization plan to allow the Secretary to arrange for the performance of such functions as described by the bills.

The bill appears to lack specific authority for the promulgation of regulations. Such action would appear necessary in carrying out the functions.

With respect to H. R. 3134, a bill for the same general purpose, now under consideration by your committee, you are advised that the Department of Commerce is opposed to its enactment. The benefits of the law would be applicable on a much broader basis than in the case of H. R. 2128 and in addition would be unlimited as to the period covered.

We are advised by the Bureau of the Budget that it would interpose no objection to the submission of such report as is deemed appropriate in this matter. The Bureau of the Budget further advises that it "is opposed in principle to using exceptions to the patent system as a method of bestowing benefits on selected individuals or corporations. Benefits under these bills would have little, if any, relation to the injury sustained by the patentee; persons reasonably relying on the terms of a patent might be damaged; administration of the exceptions would present difficulties and may require increased funds for the Patent Office; and extension of patents whose practice was curtailed by production controls would so widen the area of exceptions as to serve as an important precedent for additional exceptions in the future. A great many people were unable to fully exploit their profession or property as a result of production controls. Enactment of these bills would bestow benefits on a very small group of them even though

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there seems to be no convincing evidence that this group has a specially meritorious claim."

Sincerely yours,

SINCLAIR WEEKS,
Secretary of Commerce.

DEPARTMENT OF JUSTICE,
OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, April 14, 1955.

Hon. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice concerning the bill (H. R. 2128) to authorize the extension of patents covering inventions whose practice was prevented or curtailed during certain emergency periods by service of the patent owner in the Armed Forces or by production controls.

The bill would authorize the extension of the terms of certain patents, the normal use, exploitation, promotion or development of which was prevented or substantially curtailed either because of service of the owner in the Armed Forces, or because of the grant of royalty-free licenses to the United States, or because of an order by an agency of the Government which limited or prohibited production. The owner of such patents would be permitted to file an application with the Commissioner of Patents who would take action either granting or refusing the requested extension. Appeal processes would be provided to the United States Court of Customs and Patent Appeals or the District Court for the District of Columbia in the event any applicant is dissatisfied with the decision of the Commissioner.

The bill would benefit only some of a group of manufacturers who were prohibited from producing similar articles. Many groups, other than patentees, can claim an injury to their business due to the war and to war orders. Furthermore, many of the patents that might be extended have expired. The extension and subsequent revival of these expired patents would create inequity in their effect upon investments, commitments, and plans made in reliance on the normal expiration of patents. The bill would create uncertainty as to the expiration date of all patents. Persons and corporations who have made plans and preparations to begin manufacture of a patented item when the patient therefor expires should, except in extraordinary cases be secure in the knowledge that the patent will expire in accordance with its terms and not be extended or revived for an indeterminate period.

It is the view of the Department that the present statutory provision for the granting of patent monopolies for 17 years constitutes a fair and reasonable enactment under article I, section 8 of the Constitution, and that extension of patents as contemplated by the bill is unwarranted.

Accordingly, the Department of Justice is unable to recommend the enactment of this bill.

The Bureau of the Budget has advised that there is no objection to the submission of this report.

Sincerely,

WILLIAM P. ROGERS,
Deputy Attorney General.

SMALL BUSINESS ADMINISTRATION,
Washington, D. C., June 26, 1956.

Hon. JOSEPH C. O'MAHONEY,
Chairman, Subcommittee on Patents, Trademarks, and Copyrights, Committee on the Judiciary,
United States Senate, Washington, D. C.

DEAR SENATOR O'MAHONEY: Pursuant to the suggestion of Mr. Green, of your staff, we are submitting herewith for your information the views of the Small Business Administration concerning the proposed bill, H. R. 2128, authorizing extension of patents covering inventions whose practice was prevented or curtailed during certain emergency periods by service of the patent owner in the Armed Forces or by production controls.

The proposed bill would permit patent owners to file for an extension of the terms of a patent if 1 of the following 3 conditions were met: First, if the patent owner or his wife served in the Armed Forces and this service prevented or curtailed the use or exploitation of the patent; second, the normal use or development of the patented invention was prevented or substantially curtailed by a Government order limiting production of the article; and, third, a license was granted to the United States for the purpose of promoting any program for national defense since September 1, 1939, free of royalty or for a nominal royalty.

Under the proposed legislation, the Commissioner of Patents is authorized to grant extensions of such patents upon a finding, after appropriate hearing, that the patent should be extended in accordance with this act.

All the comments received by the Small Business Administration on the proposed legislation have been in favor of its passage. It would appear that to the extent that any small business' continued existence is dependent on the extension of its patents under this legislation, such concerns will, of course, benefit. It does not seem that this obvious benefit to the small-business segment of the economy will be outweighed by a similar extension of some patents owned by the larger concerns. In our opinion, the converse is true. The strength and continued existence of many smaller businesses may depend on the validity and duration of the patents under which they operate; but we do not find a similar dependence in the case of the larger and consequently financially stronger and more diversified companies.

It seems unlikely that the competitive position of the smaller concerns will be strengthened by the expiration of patents held by their larger competitors. It is, however, clear that the untimely expiration of the small business' patent may be a serious blow to its competitive existence. For this reason, the Small Business Administration favors the enactment of this legislation.

We are cognizant of the fact that the legislation in question may be characterized as bestowing benefits on selected individuals or corpora-

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tions and that the Bureau of the Budget is opposed to such legislation. However, we believe that enactment of this bill will tend to aid and strengthen small business and, accordingly, we support this legislation.

At the request of the Bureau of the Budget we are attaching for your information a copy of a letter of June 18, 1956, to this agency setting forth the views of the Bureau on H. R. 2128.

Sincerely yours,

WENDELL B. BARNES,
Administrator.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D. C., June 18, 1956.

Hon. WENDELL B. BARNES,
Administrator, Small Business Administration,
Washington, D. C.
(Attention: Mr. L. D. Gilbertson.)

MY DEAR MR. BARNES: This will acknowledge the receipt of Mr. McCallum's letter of June 11, 1956, transmitting copies of the report that the Small Business Administration proposes to present to the Senate Subcommittee on Antitrust and Monopoly of the Committee on the Judiciary with respect to H. R. 2128, a bill to authorize the extension of patents covering inventions whose practice was prevented or curtailed during certain emergency periods by service of the patent owner in the Armed Forces or by production controls.

In reply, you are advised that while there is no objection to the submission of such report as you may deem appropriate, the Bureau of the Budget is opposed in principle to using exceptions to the patent system as a method of bestowing benefits on selected individuals or corporations. Benefits under this bill would have little, if any, relation to the injury sustained by the patentee; persons reasonably relying on the terms of a patent might be damaged; administration of the exceptions would present difficulties and may require increased funds for the Patent Office; and extension of patents whose practice was curtailed by production controls would so widen the area of exceptions as to serve as an important precedent for additional exceptions in the future. A great many people were unable to fully exploit their profession or property as a result of production controls. Enactment of this bill would bestow benefits on a very small group of them even though there seems to be no convincing evidence that this group has a specially meritorious claim.

Sincerely yours,

ROGER W. JONES,
Assistant Director for Legislative Reference.

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Calendar No. 2752

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2705

INCORPORATING THE NATIONAL MUSIC COUNCIL

JULY 20 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. O'MAHONEY, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 8110]

The Committee on the Judiciary, to which was referred the bill (H. R. 8110) to incorporate the National Music Council, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to incorporate the National Music Council.

STATEMENT

The National Music Council has been in existence for nearly 16 years. Its membership includes practically all of the important nationally active associations in the United States and these associations have a combined individual membership of over 800,000.

The National Music Council is truly the national voice for music. A great part of the council's activities is directed toward the advancement of American music and the interests of American musicians.

The committee believes that Congress can perform a great service to the advancement of music in America by granting a Federal charter of incorporation to the National Music Council. By so doing, the Congress will give official recognition to music in the United States as one of our most important cultural assets. It will also give recognition to the many services to various Government departments and agencies performed by the council and its member organizations.

Accordingly, the committee recommends favorable consideration of H. R. 8110 without amendment.

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Calendar No. 2752

SENATE

REPORT
No. 2702

INCORPORATING THE NATIONAL MUSIC COUNCIL

Mr. O'MAHONEY, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 4179]

The Committee on the Judiciary, to which was referred the bill (H. R. 4179) to incorporate the National Music Council, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to incorporate the National Music Council.

STATEMENT

The National Music Council has been in existence for nearly 15 years. It presently includes practically all of the important national music associations in the United States and those associations have a combined individual membership of over 500,000.

The National Music Council is truly the national voice for music. A great part of the council's activity is directed toward the advancement of American music and the welfare of American musicians.

The committee believes that Congress can perform a great service to the advancement of music in America by granting a Federal charter of incorporation to the National Music Council. By so doing, the Congress will give official recognition to music in the United States as one of the most important cultural assets. It will also give recognition to the many services to various Government departments and agencies performed by the council and its member organizations.

Accordingly, the committee recommends favorable consideration of H. R. 4179 without amendment.

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Calendar No. 2753

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2706

ARCHAEOLOGICAL INSTITUTE OF AMERICA

JULY 20 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. O'MAHONEY, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 9348]

The Committee on the Judiciary, to which was referred the bill (H. R. 9348) to amend the act entitled "An act incorporating the Archeological Institute of America" to increase the value of real and personal property that such institute may hold, having considered the same, reports favorably thereon, with amendments, and recommends that the bill, as amended, do pass.

AMENDMENTS

On page 1, line 4, strike the word "Archeological" and insert in lieu thereof the word "Archaeological".

Amend the title so as to read:

> An Act to amend the Act entitled "An Act incorporating the Archaeological Institute of America" to increase the value of real and personal property that such institute may hold.

PURPOSE

The purpose of the proposed legislation as amended, is to amend the charter of the Archaeological Institute of America so as to increase the value of the real and personal property that such corporation may hold.

STATEMENT

In 1906 Congress granted a charter of incorporation to the Archaeological Institute of America (34 Stat. 203). This private corporation has promoted archaeological studies by investigation and research in

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this field. In the 1906 charter was a provision limiting the amount of property the corporation could hold to a maximum of $1 million. Such a limitation on the amount of property which may be held is unique. Its presence in the charter of the institute may now prevent its receiving a substantial bequest.

H. R. 9348 would amend the charter of the institute and authorize property holdings up to $20 million. The committee is of the opinion that this amendment is meritorious and accordingly favorably reports H. R. 9348, as amended.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italics; existing law in which no change is proposed is shown in roman):

34 STATUTES AT LARGE 203 (PUBLIC LAW 182, 59TH CONG., 1ST SESS.)

* * * * * * *

SEC. 3. That said corporation may make all by-laws, rules, and regulations not inconsistent with law that may be necessary or expedient to accomplish the purposes of its creation; and it may hold real estate and personal property in the United States and any foreign country for the necessary use and purposes of said organization to an amount not to exceed [one million] *twenty million* dollars. The principal office of said corporation shall be in Washington, in the District of Columbia, and its annual meetings may be held in such places as its by-laws may provide.

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Calendar No. 2756

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2709

PROVIDING RELIEF FOR CERTAIN MEMBERS OF THE ARMED FORCES IN CONNECTION WITH THE SHIPMENT OF HOUSEHOLD GOODS FROM OVERSEAS

JULY 20 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. EASTLAND, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 2121]

The Committee on the Judiciary, to which was referred the bill (H. R. 2121) to provide for the relief of certain members of the Armed Forces who were required to pay certain transportation charges covering shipment of their household goods and personal effects upon return from overseas, having considered the same, reports favorably thereon, without amendment, and recommends that the bill do pass.

PURPOSE

The purpose of the proposed legislation, requested by the Department of Defense, is to remove an inequity by relieving certain military personnel from the payment of transportation charges described below, which charges are not borne by other military personnel. The costs involved are proposed to be absorbed by the Department of Defense from funds appropriated for the fiscal year 1956.

STATEMENT

The proposed legislation was considered in the House of Representatives by the Committee on Armed Services. A similar bill in the Senate, S. 796, was referred to the Committee on Armed Services, and by unanimous consent request on January 9, 1956, that committee was discharged from further consideration of the proposed legislation and it was referred to this committee.

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It appears from the statement, printed in full below, presented by a representative of the Department of Defense to the Committee on Armed Services of the House of Representatives, that weight limitations on shipments of household goods, as embodied in Joint Travel Regulations, were established pursuant to the Career Compensation Act of 1949. These weight limitations were further limited by the Appropriation Acts of 1953 and 1954. Section 632 of the Department of Defense Appropriation Act of 1953 (Public Law 488, 82d Cong.) limited packing, crating, and shipment of household goods at Government expense for any one shipment to no more than 9,000 pounds.

The Department of Defense Appropriation Act of 1954 (Public Law 179, 83d Cong.), in section 629, provided relief from the weight-limit reduction for those persons returning from overseas who were ordered overseas prior to July 10, 1952, and who returned from overseas after July 1, 1953. Those persons, however, similarly situated, who were ordered overseas prior to July 10, 1952, and who returned from overseas prior to July 1, 1953, were not covered by this legislation and were not provided relief. They accordingly are liable for the excess costs from their own funds. The proposed legislation would permit these costs to be absorbed by the Department of Defense, by authorizing the reimbursement of such persons for amounts paid from their own funds, and by allowing credits for the settlement of such accounts to disbursing officers of the Armed Forces.

From the information before it, the committee believes that the proposed legislation, requested by the Department of Defense, is meritorious and the committee recommends it favorably.

Attached hereto and made a part of this report are (1) a letter, dated January 3, 1955, from the Department of the Air Force to the Speaker of the House of Representatives, forwarding a draft of the proposed legislation, and (2) a statement presented by a representative of the Department of Defense to the Committee on Armed Services of the House of Representatives on February 24, 1955.

DEPARTMENT OF THE AIR FORCE,
OFFICE OF THE SECRETARY,
Washington, January 3, 1955.

Hon. SAM RAYBURN,
Speaker of the House of Representatives.

DEAR MR. SPEAKER: There is forwarded herewith a draft of legislation to provide for the relief of certain members of the Armed Forces who were required to pay certain transportation charges covering shipment of their household goods and personal effects upon return from overseas, and for other purposes.

This proposal is a part of the Department of Defense legislative program for 1955 and the Bureau of the Budget has advised that there would be no objection to the presentation of this proposal for the consideration of the Congress. The Department of the Air Force has been designated as the representative of the Department of Defense for this legislation. It is recommended that this proposal be enacted by the Congress.

PURPOSE OF THE LEGISLATION

The purpose of this proposed legislation is to afford relief for certain military personnel who, on their return from an overseas or Alaskan tour of duty, were charged with transportation, packing, crating, temporary storage, drayage, and unpacking of household goods and personal effects for poundage in excess of 9,000 pounds net.

Certain provisions of the joint travel regulations covering weight limitations on shipments of household goods, established pursuant to the Career Compensation Act of 1949, were limited by the Appropriation Acts of 1953 and 1954.

Section 632 of Public Law 488, 82d Congress (Department of Defense Appropriation Act, 1953) provides that no part of any appropriation contained in that act shall be available to expense of transportation, packing, crating, temporary storage, drayage, and unpacking of household goods and personal effects in excess of an average of 5,000 pounds net, such average to be based on the total number of shipments authorized for permanent change of station during the previous fiscal year but not exceeding 9,000 pounds net in any one shipment.

Section 629 of Public Law 179, 83d Congress (Department of Defense Appropriation Act, 1954), while retaining the weight limitations of 5,000 and 9,000 pounds net, differs from section 632 of Public Law 488, 82d Congress, in that the qualification as to average, "such average to be based upon the total number of shipments authorized for permanent change of station during the previous fiscal year," is omitted. Further, the limitations imposed in section 629 are not "applicable in the case of members transferred to or serving in stations outside the continental United States or in Alaska under orders relieving them from a duty station within the United States prior to July 10, 1952, and who are returned to the United States under orders relieving them from a duty station beyond the United States or in Alaska on or after July 1, 1953." In other words, personnel who meet the above-stated requirements will not be affected by the 5,000- or 9,000-pound limitations but are limited by the provisions of the Joint Travel Regulations established in accordance with the Career Compensation Act of 1949.

While section 629, Public Law 179, 83d Congress, offers relief not afforded in section 632, Public Law 488, 82d Congress, certain inequities have arisen from its application. This proposal would remove these inequities. Under section 629 personnel who complete their overseas or Alaskan tour and return to the States under orders relieving them from duty on July 1, 1953, are protected under the saving provision of that section; personnel who were ordered overseas prior to July 10, 1952, but who returned on June 30, 1953, or earlier, are not so protected. In the first case, the transportation, crating, etc. (if within the limiting provisions of the Joint Travel Regulations), are paid for by the Government; in the second case, the individual must reimburse the Government for poundage in excess of 9,000 pounds net. The individual required to make such reimbursement had, in good faith, shipped household goods to the overseas or Alaskan theater in accordance with Joint Travel Regulations then in effect. In some cases personnel for whom relief is sought are members of the Reserve who were recalled to active duty, had thier household goods

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shipped at Government expense, were led to believe the return shipment would be at Government expense, and have since been called upon to defray part of the cost of the return shipment when being returned to an inactive duty status. Actions of this nature lend support to the charge that the services are constantly changing the conditions of service from those in effect at the time military personnel came on active duty.

While the military departments have not considered the 9,000-pound limitation to be applicable to intratheater moves of personnel who were not subject to the limitation on their overseas shipment, the proposal does expressly exempt such moves from the limitation.

LEGISLATIVE REFERENCES

A similar proposal was submitted to the 83d Congress on May 26, 1954, as a part of the Department of Defense legislative program for 1954, and was introduced as S. 3575, but no further action was taken thereon.

COST AND BUDGET DATA

It is estimated that the enactment of this proposal will result in an increased cost to the Army of $50,000 and to the Navy of $13,000 for fiscal year 1956. These amounts can be absorbed within funds appropriated for such purpose.

Sincerely yours,

HAROLD E. TALBOTT.

STATEMENT BY LT. COL. LOUIS M. JARCHO, DEPARTMENT OF THE AIR FORCE REPRESENTATIVE, BEFORE SUBCOMMITTEE NO, 3. COMMITTEE ON ARMED SERVICES, HOUSE OF REPRESENTATIVES, FEBRUARY 24, 1955

Mr. Chairman, I am Lt. Col. Louis M. Jarcho, Directorate of Personnel Planning, United States Air Force. The Department of the Air Force has been designated by the Office of the Secretary of Defense as the representative of the Department of Defense for the bill which you are now considering. I have been designated to appear before you on behalf of the Department of Defense.

Weight limitations on shipments of household goods as embodied in Joint Travel Regulations were established pursuant to the Career Compensation Act of 1949. These weight limitations were further limited by the Appropriation Acts of 1953 and 1954. Section 632 of the Department of Defense Appropriation Act of 1953 (Public Law 483, 82d Cong.) limited packing, crating, and shipment of household goods at Government expense for any 1 shipment to no more than 9,000 pounds. Section 629, Department of Defense Appropriation Act of 1954 (Public Law 179, 83d Cong.) provided relief from the weight limit reduction for those persons returning from overseas who were ordered overseas prior to July 10, 1952, and who returned from overseas after July 1, 1953. The relief afforded, while appropriate, was not sufficiently embracive in that it did not cover personnel who shipped overseas prior to July 10, 1952, but who returned prior to July 1, 1953. As they did not qualify for the relief, they had to

pay the excess costs from their own funds. It is particularly difficult to mark a distinction between the two classes of personnel; that is, between those who were afforded relief and those who were not.

Personnel who have not been afforded relief and were required to pay an overcharge on the return shipment had, in good faith, shipped their household goods to the overseas theater in accordance with joint travel regulations then in effect. In some cases personnel for whom relief is sought are members of the Reserve who were recalled to active duty, had their household goods shipped at Government expense, and have since been called upon to defray part of the cost of the return shipment when being returned to an inactive duty status. Actions of this nature lend support to the charge that the services are constantly changing the conditions of service from those in effect at the time military personnel came on active duty.

This proposal covers only personnel in grades of major (lieutenant commander) and above since it is only such personnel who are permitted (under the joint travel regulations) to ship in excess of 9,000 pounds. It should be noted that the Congress, in the current appropriation act, saw fit to raise the 9,000-pound limitation to 11,000 pounds for purposes of current shipments.

The total cost of enactment of this proposal for all services is so small that these amounts can be absorbed within funds appropriated for fiscal year 1956. The Air Force, on behalf of the Department of Defense, strongly recommends enactment of this legislation.

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Calendar No. 2760

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2713

MILITARY AIRCRAFT CRASH AT MINNEAPOLIS, MINN.

JULY 20 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. EASTLAND, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany S. 4197]

The Committee on the Judiciary, to which was referred the bill (S. 4197) to waive the $1,000 limitation on the authority of the Secretary of the Air Force and the Secretary of the Navy with respect to the settlement and payment of claims arising out of the crash of a United States Air Force airplane at Minneapolis, Minn., on June 5, 1956, and a United States Navy airplane at Minneapolis, Minn., on June 9, 1956, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

PURPOSE

The purpose of the proposed legislation, as amended, is to waive the existing $1,000 limitation contained in the first section of the act of July 3, 1943, as amended, so as to permit the Secretary of the Air Force and the Secretary of the Navy to receive and settle claims in excess of that amount, such claims arising out of the crash of an Air Force plane on June 5, 1956, and a United States Navy plane on June 9, 1956, in the vicinity of Minneapolis, Minn. The usual attorney fee limitation has been added by the committee.

AMENDMENT

On page 2, line 19, strike out "such claim." and insert:

such claim.

SEC. 3. No part of the amounts awarded under this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with these claims, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be

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deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

STATEMENT

On June 5, 1956, an Air Force jet aircraft allegedly engaged in an authorized training flight crashed, striking an automobile near Wold-Chamberlain Air Field and taking the lives of three people.

On June 9, 1956, a Navy aircraft, also allegedly engaged in an authorized training flight, crashed in the same vicinity causing death and injury and extensive property damage to a number of people residing in or about Minneapolis, Minn. With respect to this crash, the committee has been advised that claims aggregating approximately $203,000 will be filed with the Navy should this legislation be enacted. The committee has no information with respect to the number of claims nor the aggregate amount thereof which will be filed with the Air Force.

The sponsor of the legislation urges the enactment of this bill in the belief that it will provide those persons who have been damaged with more expeditious relief than that afforded under the provisions of the Federal Tort Claims Act.

No reports have been received by the committee with respect to the merits of this legislation from the departments concerned.

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Calendar No. 2761

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2714

MILITARY AIRCRAFT CRASH AT MINNEAPOLIS, MINN.

JULY 20 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. EASTLAND, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany S. 4238]

The Committee on the Judiciary, to which was referred the bill (S. 4238) to waive the $1,000 limitation on the authority of the Secretary of the Air Force and the Secretary of the Navy in the settlement of claims arising out of the crash of a United States Air Force aircraft and a United States Navy aircraft near Wold-Chamberlain Air Field, Minneapolis, Minn., on June 5, 1956 and June 9, 1956, respectively, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

PURPOSE

The purpose of the proposed legislation, as amended, is to waive the existing $1,000 limitation contained in the first section of the act of July 3, 1943, as amended, so as to permit the Secretary of the Air Force and the Secretary of the Navy to receive and settle claims in excess of that amount, such claims arising out of the crash of an Air Force plane on June 5, 1956, and a United States Navy plane on June 9, 1956, in the vicinity of Minneapolis, Minn. The usual attorney fee limitation has been added by the committee.

AMENDMENT

On page 1, line 10, strike out "9, 1956" and insert:

9, 1956.

SEC. 2. No part of the amounts awarded under this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with these claims, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be

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deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

STATEMENT

On June 5, 1956, an Air Force jet aircraft allegedly engaged in an authorized training flight crashed, striking an automobile near Wold-Chamberlain Air Field and taking the lives of three people.

On June 9, 1956, a Navy aircraft, also allegedly engaged in an authorized training flight, crashed in the same vicinity causing death and injury and extensive property damage to a number of people residing in or about Minneapolis, Minn. With respect to this crash, the committee has been advised that claims aggregating approximately $203,000 will be filed with the Navy should this legislation be enacted. The committee has no information with respect to the number of claims nor the aggregate amount thereof which will be filed with the Air Force.

The sponsor of the legislation urges the enactment of this bill in the belief that it will provide those persons who have been damaged with more expeditious relief than that afforded under the provisions of the Federal Tort Claims Act.

No reports have been received by the committee with respect to the merits of this legislation from the Departments concerned.

Calendar No. 2766

84TH CONGRESS, 2d Session } SENATE { REPORT No. 2718

AMENDING THE ACT OF JANUARY 2, 1942, ENTITLED "AN ACT TO PROVIDE FOR THE PROMPT SETTLEMENT OF CLAIMS FOR DAMAGES OCCASIONED BY ARMY, NAVY, AND MARINE CORPS FORCES IN FOREIGN COUNTRIES"

JULY 20 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. EASTLAND, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 3561]

The Committee on the Judiciary, to which was referred the bill (H. R. 3561) to further amend the act of January 2, 1942, entitled "An act to provide for the prompt settlement of claims for damages occasioned by Army, Navy, and Marine Corps forces in foreign countries," having considered the same, reports favorably thereon, without amendment, and recommends that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to amend the so-called Foreign Claims Act of 1942, as requested by the Department of Defense in the following respects:

(1) To provide that the claim to be considered under the act must arise outside the United States, its Territories and possessions, in substitution for the existing provision that the claim to be considered must arise in the foreign country of which the claimant is an inhabitant;

(2) To increase the limit on claims which may be paid under the act from $5,000 to $15,000;

(3) To make permanent the authority now limited to time of war that a claim against any one service may be settled by a commission under the act whether or not the commission is composed of officers of the particular service concerned; and

(4) To cover under the act the activities of civilian employees of the Department of Defense who are not employees of the military departments.

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STATEMENT

The proposed legislation has been submitted to the Congress by the Department of Defense.

It has been designated as a part of the Department of Defense legislative program.

The Department of the Air Force, which has been designated as the representative of the Department of Defense for this proposed legislation, has set forth the reasons for which the proposed legislation is being requested as follows:

The purpose of this legislation is to further amend the act of January 2, 1942, generally referred to as the Foreign Claims Act. This act, as amended, authorizes the Secretary of a military department to appoint commissions to settle claims against the United States where military or civilian personnel of that department have caused property damage, injury, or death to inhabitants of any foreign country.

One of the requirements in the act is that the person must have sustained the property loss, injury, or death in the country in which he is an inhabitant. If the claim arises in a foreign country of which the claimant is not an inhabitant, there is no authority for an administrative settlement. For example, a French inhabitant may be paid if he is injured in France but he cannot be paid if he is injured in Belgium, or some other foreign country. Section 1 (1) of this proposal would eliminate this situation by deleting from the act the words "arising in such foreign country," and substituting therefore the words "arising outside of the United States, its Territories and possessions." The fact that settlements can be effected only in those cases where the claimant is an inhabitant of the country where the incident occurred has resulted in numerous private relief bills. This would be obviated by the enactment of the proposed bill.

At the present time, almost all death claims and many property damage claims are found to be meritorious in an amount exceeding $5,000. When so found, they must be certified to the Congress by the Bureau of the Budget for an appropriation out of which to pay the claim, thus resulting in a delay in payment and consequent dissatisfaction with the presence of United States Armed Forces in otherwise friendly foreign countries. Enactment of section 1 (2) of the proposed bill would not only expedite payment of these meritorious claims, but would reduce by approximately 90 percent the number of claims so certified to Congress. The proposed amendment would raise the jurisdictional limit of claims which may be settled administratively from $5,000 to $15,000.

The existing law permits claims against one service to be settled and paid, upon the request of the service concerned, by a claims commission composed of officers of a different service during time of war. Section 1 (3) of the proposed bill would provide permanent authority for the use of joint commissions or commissions of other services. Under the present law, each military department must, in peacetime, have a claims commission available for every area in the world where civilian or military personnel of that department are assigned for duty. Enactment of this legislative proposal will decrease the peacetime budgetary requirements of the Department of Defense by eliminating the necessity for 3 commissions in foreign

countries where civilian or military personnel of all 3 military departments are assigned.

Finally, the coverage of the Foreign Claims Act is limited to the activities of military and civilian personnel of the three military departments. It does not cover activities of those civilian employees of the Department of Defense who are not employed by a military department, such as civilian employees of the Office of the Secretary of Defense and of military assistance advisory groups. Section 1 (4) of the proposed bill would extend the coverage of the Foreign Claims Act to the activities of these civilian employees. Any claims made cognizable by this extension of the act would be handled by the commissions already established by the military departments. While the number of claims caused by the activities of civilian employees of the Department of Defense has been limited, the lack of authority to settle them has been a source of embarrassment to the Government. The effect of the proposed amendment is to extend the act so that it will conform with existing Department of Defense organization.

The committee believes that the proposed legislation, requested by the Department of Defense, is meritorious and recommends it favorably.

Attached and made a part of this report is a letter, dated January 3, 1955, from the Department of the Air Force.

DEPARTMENT OF THE AIR FORCE,
OFFICE OF THE SECRERATY,
Washington, January 3, 1955.

Hon. SAM RAYBURN,
Speaker of the House of Representatives.

DEAR MR. SPEAKER: There are forwarded herewith a draft of legislation to further amend the act of January 2, 1942, entitled "An act to provide for the prompt settlement of claims for damages occasioned by Army, Navy, and Marine Corps forces in foreign countries," and a sectional analysis thereof.

This proposal is a part of the Department of Defense legislative program for 1955, and the Bureau of the Budget has advised that there would be no objection to the presentation of this proposal for the consideration of the Congress. The Department of the Air Force has been designated as the representative of the Department of Defense for this legislation. It is recommended that this proposal be enacted by the Congress.

PURPOSE OF THE LEGISLATION

The purpose of this legislation is to further amend the act of January 2, 1942, generally referred to as the Foreign Claims Act. This act, as amended, authorizes the Secretary of a military department to appoint commissions to settle claims against the United States where military or civilian personnel of that department have caused property damage, injury, or death to inhabitants of any foreign country.

One of the requirements in the act is that the person must have sustained the property loss, injury, or death in the country in which he is an inhabitant. If the claim arises in a foreign country of which

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the claimant is not an inhabitant, there is no authority for an administrative settlement. For example, a French inhabitant may be paid if he is injured in France but he cannot be paid if he is injured in Belgium, or some other foreign country. Section 1 (l) of this proposal would eliminate this situation by deleting from the act the words "arising in such foreign country," and substituting therefor the words "arising outside of the United States, its Territories and possessions." The fact that settlements can be effected only in those cases where the claimant is an inhabitant of the country where the incident occurred has resulted in numerous private relief bills. This would be obviated by the enactment of the proposed bill.

At the present time, almost all death claims and many property damage claims are found to be meritorious in an amount exceeding $5,000. When so found, they must be certified to the Congress by the Bureau of the Budget for an appropriation out of which to pay the claim, thus resulting in a delay in payment and consequent dissatisfaction with the presence of United States Armed Forces in otherwise friendly foreign countries. Enactment of section 1 (2) of the proposed bill would not only expedite payment of these meritorious claims, but would reduce by approximately 90 percent the number of claims so certified to Congress. The proposed amendment would raise the jurisdictional limit of claims which may be settled administratively from $5,000 to $15,000.

The existing law permits claims against one service to be settled and paid, upon the request of the service concerned, by a claims commission composed of officers of a different service during time of war. Section 1 (3) of the proposed bill would provide permanent authority for the use of joint commissions or commissions of other services. Under the present law, each military department must, in peacetime, have a claims commission available for every area in the world where civilian or military personnel of that department are assigned for duty. Enactment of this legislative proposal will decrease the peacetime budgetary requirements of the Department of Defense by eliminating the necessity for 3 commissions in foreign countries where civilian or military personnel of all 3 military departments are assigned.

Finally, the coverage of the Foreign Claims Act is limited to the activities of military and civilian personnel of the three military departments. It does not cover activities of those civilian employees of the Department of Defense who are not employed by a military department, such as civilian employees of the Office of the Secretary of Defense and of military assistance advisory groups. Section 1 (4) of the proposed bill would extend the coverage of the Foreign Claims Act to the activities of these civilian employees. Any claims made cognizable by this extension of the act would be handled by the commissions already established by the military departments. While the number of claims caused by the activities of civilian employees of the Department of Defense has been limited, the lack of authority to settle them has been a source of embarrassment to the Government. The effect of the proposed amendment is to extend the act so that it will conform with existing Department of Defense organization.

All of these amendments are designed to effectuate as fully as possible the avowed purpose of the Foreign Claims Act, which is to promote and maintain friendly relations with foreign countries by the prompt settlement of certain meritorious claims arising in those countries.

LEGISLATIVE REFERENCES

By letters dated January 5, 1953, and March 23, 1953, the Office of the Secretary of Defense forwarded two proposals to the Congress which were introduced as H. R. 2565 and H. R. 4364, respectively. By a letter dated December 2, 1953, the Department of the Air Force forwarded a proposal to the Congress which was introduced as H. R. 7067. All three of those proposals would have amended the Foreign Claims Act. The proposals which were introduced as H. R. 2565 and H. R. 4364 were also introduced as S. 1239 and S. 1449, respectively. H. R. 2565 and H. R. 4364 were passed by the House of Representatives on April 20, 1953, and May 19, 1953, respectively, but no further action was taken thereon. No action was taken on H. R. 7067 after its introduction. This proposal is a consolidation of those there proposals.

COST AND BUDGET DATA

It is estimated that the enactment of this proposal would result in an increase in costs to the Army of $139,000 and to the Air Force of $49,000 for fiscal year 1956, however, no worthwhile estimate of the increase in costs to the Navy and the Marine Corps is possible.

Sincerely yours,

HAROLD E. TALBOTT.

[Enclosure]

SECTIONAL ANALYSIS

Section 1. Clause (1) would amend the first section of the basic act to delete the present requirement that the claimant must be an inhabitant of the foreign country in which the incident occurred which gave rise to his claim against the United States. Under the proposed amendment, the only requirement will be that the claim must arise outside of the United States, its Territories and possessions.

Clause (2) would amend the first section of the basic act to raise the jurisdictional limit of claims which may be settled and paid by a foreign claims commission from $5,000 to $15,000.

Clause (3) would amend section 7 of the basic act to make permanent the present wartime authority to have a claim against one service settled, at the request of that service, by any foreign claims commission even though not composed of officers of the service concerned.

Clause (4) would add a new section 8 to the bill to provide coverage under the basic act for the activities of civilian employees of the Department of Defense who are not employees of the military departments. At the present time, the activities of civilian employees of the military departments are covered, but the activities of civilian employees of the Department of Defense who are not employees of the military departments are not covered. The new section 8 would provide such coverage. Claims arising out of the activities of these persons will be considered, ascertained, adjusted, determined, and paid by claims commissions already established by the military departments.

Section 2 would provide that the amendments which will be made by clauses (1) and (4) of section 1 shall be effective only with respect

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to claims accruing after the date of enactment of this amendatory act.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic, existing law in which no change is proposed is shown in roman, matter to be stricken is enclosed in brackets):

ACT OF JANUARY 2, 1942, AS AMENDED

(55 Stat. 880; 31 U. S. C. 224d; 57 Stat. 66; 31 U. S. C. 224d)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of January 2, 1942 (55 Stat. 880; 31 U. S. C. 224d), be, and hereby is, amended to read as follows:

"That, for the purpose of promoting and maintaining friendly relations by the prompt settlement of meritorious claims, the Secretary of War and the Secretary of the Navy, and such other officer or officers as the Secretary of War or the Secretary of the Navy, as the case may be, may designate for such purposes and under such regulations as he may prescribe, are hereby authorized to appoint a Claims Commission or Commissions, each composed of one or more officers of the Army, Navy, or Marine Corps, as the case may be, to consider, ascertain, adjust, determine, and make payments, where accepted by the claimant in full satisfaction and in final settlement, of claims, including claims of insured but excluding claims of subrogees, on account of damage to or loss or destruction of public property both real and personal, or on account of damage to or loss or destruction of private property both real and personal, or personal injury or death of inhabitants of a foreign country, including places located therein which are under the temporary or permanent jurisdiction of the United States, [arising in such foreign country] *arising outside of the United States, its Territories and possessions*, including claims for damage to or loss or destruction of personal property bailed to the Government and claims for damages incident to the use and occupancy of real property, whether under a lease, express or implied, or otherwise, when such damage, loss, destruction, or injury is caused by Army, Navy, or Marine Corps forces, or individual members thereof, including military personnel and civilian employees thereof, or otherwise incident to noncombat activities of such forces, where the amount of such claim does not exceed [$5,000] *$15,000: Provided*, That no claim shall be considered by such Commissions unless presented within one year after the occurrence of the accident or incident out of which such claim arises except that claims arising out of accidents or incidents occurring after December 6, 1941, but prior to May 1, 1943, may be presented at any time prior to May 1, 1944: *Provided further*, That any such settlements made by such Commissions shall be subject to such regulations as the Secretary of War or the Secretary of the Navy may prescribe and may, in cases where the amount exceeds $2,500 but does not exceed [$5,000] *$15,000*, be subject to the approval of such commanding or other officer of Army, Navy, or Marine Corps forces, as the case may be, as the Secretary

of War or the Secretary of the Navy may prescribe; and the Secretary of War and the Secretary of the Navy, respectively, shall have authority, if he deems any claim in excess of [$5,000] *$15,000* to be meritorious, to certify such amount as may be found to be just and reasonable thereon to Congress as a legal claim for payment out of appropriations that may be made by Congress therefor, together with a brief statement of the character of such claim, the amount claimed, and the amount allowed: *Provided further*, That no claim of any national of any country at war with the United States, or of any ally of such enemy country, except as the Commission or the local military commander shall determine that the claimant is friendly to the United States, and no claim resulting from action by the enemy or resulting directly or indirectly from any act by our Armed Forces engaged in combat, shall be allowed under this Act: *Provided further*, That any such settlements made by such Commissions under the authority of this Act shall be final and conclusive for all purposes, notwithstanding any other provision of law to the contrary.

"SEC. 2. All payments in settlement of claims under section 1 of this Act shall be made out of the appropriation, current at the time of settlement, for 'Pay, subsistence, and transportation of naval personnel', as to claims settled by Commissions composed of officers of the Navy or Marine Corps, and out of the appropriation, current at the time of settlement, for 'Finance Service, Army', as to claims settled by Commissions composed of officers of the Army.

"SEC. 3. This Act shall be supplementary to, and not in lieu of, all other provisions of law authorizing consideration, ascertainment, adjustment, determination, or payment of claims by the Secretary of War and the Secretary of the Navy, respectively.

"SEC. 4. This Act shall be applicable to claims not heretofore satisfied arising on or after May 27, 1941: *Provided*, That, as to any claim in excess of $1,000 this Act shall be applicable for the purpose of payment thereof, or the purpose of the certification thereof to Congress for payment, only if the accident or incident out of which such claim arises has occurred, or shall occur, subsequent to December 6, 1941.

"SEC. 5. The Act of April 18, 1918 (40 Stat. 532), relating to indemnity for damages caused by American forces abroad, is hereby repealed.

"SEC. 6. Claims of the type described in section 1 hereof on account of damage to or loss or destruction of property, both real and personal, or personal injury or death of any person, caused by Coast Guard forces, or individual members, including military personnel and civilian employees thereof, or otherwise incident to activities of such forces, arising at any time while the Coast Guard shall be operating as a part of the Navy may be considered, ascertained, adjusted, determined, and paid in the manner in this Act provided for the settlement of Navy and Marine Corps claims, except that in such cases one or more officers of the Coast Guard may be appointed by the Secretary of the Navy to a Claims Commission or Commissions or as officers to approve settlements of claims made by such Commission or Commissions, and all payments in settlement of such claims shall be made out of the appropriation 'General expenses, Coast Guard': *Provided*, That no claims on account of damage to or loss or destruction of property, or personal injury or death, caused by Coast Guard forces, or individual members thereof, or otherwise incident to the

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activities of such forces, shall be considered, ascertained, adjusted, determined, or paid under the provisions of this Act at any time when the Coast Guard shall be operating under the Treasury Department.

* * * * * * *

"SEC. 7. [In time of war, any] *Any* claims, whether Army, Navy, Marine Corps, or Coast Guard, which may be settled under this Act may, at the request of the service concerned, be settled by any Commission or Commissions appointed under this Act even though not composed of officers of the service concerned, subject to reimbursement by the service for whom the claims were settled pursuant to the provisions of this Act."

* * * * * * *

"SEC. 8. The Secretary of Defense may designate any claims commission or commissions, appointed under section 1, to consider, ascertain, adjust, determine, and make payment with respect to claims, as described in section 1 hereof, for damages caused by a civilian employee of the Department of Defense other than a civilian employee of the Department of the Army, Navy, or Air Force. Claims under this section shall be considered, ascertained, adjusted, determined, and paid in the same manner provided in this Act for the settlement of Army, Navy, Air Force, and Marine Corps claims. All payments in settlement of claims under this section shall be made out of appropriations available to the Office of the Secretary of Defense for the payment of claims.".

SEC. 2. The amendments made by clauses (1) and (4) of section 1 of this Act shall be effective with respect to claims accruing after the date of its enactment.

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Calendar No. 2767

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2719

REGISTRATION OF CERTAIN PERSONS TRAINED IN FOREIGN ESPIONAGE SYSTEMS

JULY 20 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. EASTLAND, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 3882]

The Committee on the Judiciary, to which was referred the bill (H. R. 3882) to require the registration of certain persons who have knowledge of or have received instruction or assignment in the espionage, counterespionage, or sabotage service or tactics of a foreign government or foreign political party, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE BILL

The purpose of the bill is to repeal section 20 (a) of the Internal Security Act of 1950 (which is also sec. 1 (c) (5) of the Foreign Agents Registration Act of 1938, as amended), and substitute therefor a separate registration statute unconnected with the Foreign Agents Registration Act, which will require the registration of those persons who have knowledge of or have received an assignment in the espionage or sabotage service or tactics of a foreign government or a foreign political party, without regard to any present agency status of such persons.

STATEMENT

The report of the Committee on the Judiciary of the House of Representatives (Rept. 601, 84th Cong., 1st sess.) contains a comprehensive history and analysis of this legislation, as well as pertinent correspondence from the interested departments and agencies of the Government, and for this reason it is unnecessary to set forth those items here.

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CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new law in italics, existing law in which no change is proposed is shown in roman):

(64 Stat. 1005)

SEC. 20. The Act of June 8, 1938 (52 Stat. 631; 22 U. S. C. 611–621), entitled "An Act to require the registration of certain persons employed by agencies to disseminate propaganda in the United States, and for other purposes", as amended, is hereby further amended as follows:

[(a) Strike out the word "and" at the end of section 1 (c) (3), insert the word "and" at the end of section 1 (c) (4), and add the following paragraph immediately after section 1 (c) (4):

["(5) any person who has knowledge of or has received instruction or assignment in the espionage, counterespionage, or sabotage service or tactics of a government of a foreign country or of a foreign political party, unless such knowledge, instruction, or assignment has been acquired by reason of civilian, military, or police service with the United States Government, the governments of the several States, their political subdivisions, the District of Columbia, the Territories, the Canal Zone, or the insular possessions, or unless such knowledge has been acquired solely by reason of academic or personal interest not under the supervision of or in preparation for service with the government of a foreign country or a foreign political party or unless, by reason of employment at any time by an agency of the United States Government having responsibilities in the field of intelligence, such person has made full written disclosure of such knowledge or instruction to officials within such agency, such disclosure has been made a matter of record in the files of such agency, and a written determination has been made by the Attorney General or the Director of Central Intelligence that registration would not be in the interest of national security;

[(b)] *Except as provided in section 3 of this Act, every person who has knowledge of, or has received instruction or assignment in, the espionage, counterespionage, or sabotage service or tactics of a government of a foreign country or of a foreign political party, shall register with the Attorney General by filing with the Attorney General a registration statement in duplicate, under oath, prepared and filed in such manner and form, and containing such statements, information, or documents pertinent to the purposes and objectives of this Act as the Attorney General, having due regard for the national security and the public interest, by regulations prescribes.*

SEC. 3. The registration requirements of section 2 of this Act do not apply to any person—

(a) who has obtained knowledge of or received instruction or assignment in the espionage, counterespionage, or sabotage service or tactics of a foreign government or foreign political party by reason of civilian, military, or police service or employment with the United States Government, the governments of the several States,

their political subdivisions, the District of Columbia, the Territories, or the Canal Zone;

(b) who has obtained such knowledge solely by reason of academic or personal interest not under the supervision of or in preparation for service with the government of a foreign country or a foreign political party;

(c) who has made full disclosure of such knowledge, instruction, or assignment to officials within an agency of the United States Government having responsibilities in the field of intelligence, which disclosure has been made a matter of record in the files of such agency, and concerning whom a written determination has been made by the Attorney General or the Director of Central Intelligence that registration would not be in the interest of national security;

(d) whose knowledge of, or receipt of instruction or assignment in, the espionage, counterespionage, or sabotage service or tactics of a government of a foreign country or of a foreign political party, is a matter of record in the files of an agency of the United States Government having responsibilities in the field of intelligence and concerning whom a written determination is made by the Attorney General or the Director of Central Intelligence, based on all information available, that registration would not be in the interest of national security;

(e) who is a duly accredited diplomatic or consular officer of a foreign government, who is so recognized by the Department of State, while he is engaged exclusively in activities which are recognized by the Department of State as being within the scope of the functions of such officer, and any member of his immediate family who resides with him;

(f) who is an official of a foreign government recognized by the United States, whose name and status and the character of whose duties as such official are of record in the Department of State, and while he is engaged exclusively in activities which are recognized by the Department of State as being within the scope of the functions of such official, and any member of his immediate family who resides with him;

(g) who is a member of the staff of or employed by a duly accredited diplomatic or consular officer of a foreign government who is so recognized by the Department of State, and whose name and status and the character of whose duties as such member or employee are a matter of record in the Department of State, while he is engaged exclusively in the performance of activities recognized by the Department of State as being within the scope of the functions of such member or employee;

(h) who is an officially acknowledged and sponsored representative of a foreign government and is in the United States on an official mission for the purpose of conferring or otherwise cooperating with United States intelligence or security personnel;

(i) who is a civilian or one of the military personnel of a foreign armed service coming to the United States pursuant to arrangements made under a mutual defense treaty or agreement, or who has been invited to the United States at the request of an agency of the United States Government; or

(j) who is a person designated by a foreign government to serve as its representative in or to an international organization in which

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the United States participates or is an officer or employee of such an organization or who is a member of the immediate family of, and resides with, such a representative, officer, or employee.

SEC. 4. The Attorney General shall retain in permanent form one copy of all registration statements filed under this Act. They shall be public records and open to public examination at such reasonable hours and under such regulations as the Attorney General prescribes, except that the Attorney General, having due regard for the national security and public interest, may withdraw any registration statement from public examination.

SEC. 5. The Attorney General may at any time, make, prescribe, amend, and rescind such rules, regulations, and forms as he deems necessary to carry out the provisions of this Act.

SEC. 6. (a) Whoever willfully violates any provision of this Act or any regulation thereunder, or in any registration statement willfully makes a false statement of a material fact or willfully omits any material fact, shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

(b) Any alien convicted of a violation of this Act or any regulation thereunder is subject to deportation in the manner provided by chapter 5, title II, of the Immigration and Nationality Act (66 Stat. 163).

SEC. 7. Failure to file a registration statement as required by this Act is a continuing offense for as long as such failure exists, notwithstanding any statute of limitation or other statute to the contrary.

SEC. 8. Compliance with the registration provisions of this Act does not relieve any person from compliance with any other applicable registration statute.

SEC. 9. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act, and the application of such provisions to other persons or circumstances, is not affected thereby.

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Calendar No. 2768

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2720

AMENDING SECTION 1721, TITLE 18, UNITED STATES CODE, RELATING TO THE SALE OR PLEDGE OF POSTAGE STAMPS

JULY 20 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. EASTLAND, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 5417]

The Committee on the Judiciary, to which was referred the bill (H. R. 5417) to amend section 1721, title 18, United States Code, relating to the sale or pledge of postage stamps, having considered the same, reports favorably thereon, without amendment, and recommends that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to broaden the class of postal employees who are subject to criminal penalties under existing law for so disposing of stamps, stamped envelopes, or postal cards as to inflate receipts artificially; and to broaden the prohibition under existing law so as to include the inflation of receipts by means (such as the use of postal meter impressions) other than the disposing of stamps, stamped envelopes, or postal cards.

STATEMENT

The proposed legislation has been requested by the Post Office Department.

The Department of Justice advises that whether or not the proposed legislation should be enacted is a question on which it prefers to make no recommendation.

Existing law in regard to the sale or pledge of stamps by Postal Service employees applies to any employee "entrusted with the sale or custody of postage stamps, stamped envelopes, or postal cards." The

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proposed legislation would eliminate these quoted words so as to make the law applicable to any postal service employee.

Existing law makes the penalties of a fine of not more than $500, or imprisonment of not more than 1 year, apply to an employee who, among other prohibited acts, "induces or attempts to induce any person to purchase" for the purpose of increasing emoluments or compensation "postage stamps, stamped envelopes, or postal cards." The proposed legislation would eliminate these quoted words and broaden the prohibited act to "inflates or induces the inflation of the receipts" of any post office or branch.

It appears from a letter, dated March 28, 1955, which is printed in full below, from the Post Office Department, transmitting a draft of the proposed legislation, that the broadening of the statute as to the class of employees and as to the prohibited acts was suggested by a specific case, described by the Post Office Department as follows:

> A money order clerk was employed by a private concern after his duty hours in the post office where he worked. The clerk was the son of the postmaster. The clerk persuaded his private employer to purchase his post office meter impressions at such time as to increase the receipts of the post office for the year 1952. Upon being interviewed by a post office inspector, the clerk stated that it was a matter of common knowledge that the receipts of the office had been increasing for some time and that the office was approaching the $300,000 annual receipt category. The reaching of this receipt range would result in an increase in compensation for the postmaster and various supervisory employees. The clerk further admitted to the inspector that by making his suggestion concerning the meter setting to his private employer he intended to influence the salaries of the officials at the post office in question.
>
> The facts in the case were presented to the assistant United States attorney for the proper district who declined to prosecute because the money order clerk was not an employee "entrusted with the sale or custody of postage stamps, stamped envelopes, or postal cards" as prescribed by the statute.
>
> It is to prevent occurrences such as that above related, and other similar situations, that this proposal is being submitted.

The committee believes that the proposed legislation is meritorious and recommends it favorably.

Attached and made a part of this report is (1) a letter, dated March 28, 1955, from the Post Office Department, transmitting a draft of the proposed legislation, and (2) a letter, dated April 29, 1954, from the Department of Justice, in regard to a similar bill in the 83d Congress.

OFFICE OF THE POSTMASTER GENERAL,
Washington, D. C., March 28, 1955.

Hon. SAM RAYBURN,
Speaker of the House of Representatives.

DEAR MR. SPEAKER: There is transmitted herewith a draft proposal of legislation to amend section 1721, title 18, United States Code, relating to the sale or pledge of postage stamps.

The purpose of this proposed legislation is to broaden the class of postal employees who are prohibited from inducing or attempting to induce any person to purchase postage stamps, stamped envelopes, or postal cards for the purpose of increasing the emoluments or compensation of the postmaster or any employee of any post office or any station or branch thereof.

At the present time only those employees who are "entrusted with the sale or custody of postage stamps, stamped envelopes, or postal cards" are prohibited from making or attempting to make such sales for the purposes mentioned above. There are, however, other postal employees who may benefit directly or indirectly from the increase in receipts at the post offices at which they are employed and these employees, also, should be brought within this law.

A case in point recently occurred. A money order clerk was employed by a private concern after his duty hours in the post office where he worked. The clerk was the son of the postmaster. The clerk persuaded his private employer to purchase his post office meter impressions at such time as to increase the receipts of the post office for the year 1952. Upon being interviewed by a post office inspector, the clerk stated that it was a matter of common knowledge that the receipts of the office had been increasing for some time and that the office was approaching the $300,000 annual receipt category. The reaching of this receipt range would result in an increase in compensation for the postmaster and various supervisory employees. The clerk further admitted to the inspector that by making his suggestion concerning the meter settings to his private employer he intended to influence the salaries of the officials at the office in question.

The facts in the case were presented to the assistant United States attorney for the proper district who declined to prosecute because the money order clerk was not an employee "entrusted with the sale or custody of postage stamps, stamped envelopes or, postal cards," as prescribed by the statute.

It is to prevent occurrences such as that above related, and other similar situations, that this proposal is being submitted.

It is believed that the suggested legislation is in the public interest, and its early enactment is recommended.

The Bureau of the Budget has advised that there would be no objection to the sumbission of this legislative proposal to Congress.

Sincerely yours,

CHARLES R. HOOK, Jr.,
Acting Postmaster General.

DEPARTMENT OF JUSTICE,
OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D. C., April 29, 1954.

Hon. CHAUNCEY W. REED,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice relative to the bill (H. R. 7326) to amend section 1721, title 18, United States Code, relating to the sale or pledge of postage stamps.

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Section 1721 now prohibits certain activities on the part of postmasters and postal service employees "entrusted with the sale or custody of postage stamps, stamped envelopes, or postal cards." If the bill should be enacted the application of the section, except for proposed paragraph 1 thereof, will no longer be limited to personnel so entrusted, but will apply to all postmasters and all postal service employees.

It is noted that the bill eliminates the words "or the allowances or facilities provided therefor," presently in the section. The Post Office Department has advised that the omission was inadvertent and that it will request the committee to insert the language in that paragraph of the bill which is designated "(6)."

It is also noted that the words "induces or attempts to induce any person to purchase at such post office or any station thereof, or from any employee of such post office, postage stamps, stamped envelopes, or postal cards" have also been omitted. It is understood that in submitting this legislation the Post Office Department considered the language used in the paragraph designated "(6)" as embracing that which has been omitted.

Finally, the bill would change the form of the section by separately numbering each of the prohibited types of activities. This would certainly permit readier reference and easier citation to its various clauses.

Whether the measure should be enacted constitutes a question of primary concern to the Post Office Department and one on which the Department of Justice prefers to make no recommendation.

The Bureau of the Budget has advised that there is no objection to the submission of this report.

Sincerely,

WILLIAM P. ROGERS,
Deputy Attorney General.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics, existing law in which no change is proposed is shown in roman, matter to be stricken is enclosed in brackets):

SECTION 1721, TITLE 18, UNITED STATES CODE

§ 1721. Sale or pledge of stamps

Whoever, being a postmaster or Postal Service employee [entrusted with the sale or custody of postage stamps, stamped envelopes, or postal cards], *knowingly and willfully:* uses or disposes of [them] *postage stamps, stamped envelopes, or postal cards entrusted to his care or custody* in the payment of debts, or in the purchase of merchandise or other salable articles, or pledges or hypothecates the same, or sells or disposes of them except for cash; or sells or disposes of postage stamps or postal cards for any larger or less sum than the values indicated on their faces; or sells or disposes of stamped envelopes for a larger or less sum than is charged therefor by the Post Office Department for like quantities; or sells or disposes of postage stamps,

stamped envelopes, or postal cards at any point or place outside of the delivery of the office where such postmaster or other person is employed; or for the purpose of increasing the emoluments, or compensation of the postmaster or any employee of a post office or station *or branch* thereof, [or the allowances or facilities provided therefor, induces or attempts to induce any person to purchase at such] *inflates or induces the inflation of the receipts of any* post or any station *or branch* thereof [,] [or from any employee of such post office, postage stamps, stamped envelopes or postal cards]; or sells or disposes of postage stamps, stamped envelopes, or postal cards, otherwise than as provided by law or the regulations of the Post Office Department [,]; shall be fined not more than $500 or imprisoned not more than one year, or both.

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Calendar No. 2770

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2722

AMENDING THE BANKRUPTCY ACT AS TO UNCLAIMED MONEYS

JULY 20 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. EASTLAND, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 6247]

The Committee on the Judiciary, to which was referred the bill (H. R. 6247) to amend subdivision a of section 66—Unclaimed Moneys—of the Bankruptcy Act, as amended, and to repeal subdivision b of section 66 of the Bankruptcy Act, as amended, having considered the same, reports favorably thereon, without amendment, and recommends that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to provide for the handling of unclaimed moneys in bankruptcy proceedings in the same manner as all other unclaimed moneys in district courts are handled under section 2042 of title 28 of the United States Code and that such unclaimed moneys not be subject to escheat under State laws.

STATEMENT

The proposed legislation has been requested by the Administrative Office of the United States Courts.

The Bankruptcy Act, as amended, now provides in subdivision a of section 66 that dividends or other moneys which remain unclaimed for 60 days after the final dividend has been declared and distributed shall be paid by the trustee into the court of bankruptcy and that at the same time the trustee shall file with the clerk a list of the names and post-office addresses, as far as known, of the persons entitled thereto, showing the respective amounts payable to them.

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The act now provides in subdivision b of section 66 that dividends remaining unclaimed for 1 year shall under the direction of the court be distributed to the creditors whose claims have been allowed but not paid in full, and that after such claims have been paid in full the balance shall be paid to the bankrupt, provided, however, that in case unclaimed dividends belong to minors, such minors may have 1 year after arriving at majority to claim such dividends.

The proposed legislation would repeal subdivision b.

The proposed legislation would amend subdivision a by adding the provision that such moneys and dividends shall be deposited and withdrawn as provided in section 2042 of title 28 of the United States Code and shall not be subject to escheat under the laws of any State.

Section 2042 of title 28 of the United States Code provides that unclaimed moneys shall be deposited in the Treasury to the name and to the credit of the United States and that any claimant entitled to any such money may upon petition to the court and upon notice to the United States attorney and full proof of the right thereto obtain an order directing payment to him of such money. The text of section 2042 of title 28 is printed for convenience below.

The Special Committee of the Judicial Conference of the United States appointed to consider the matter of the better handling of unclaimed moneys in bankruptcy proceedings, consisting of United States Circuit Judge F. Ryan Duffy, Chairman, United States District Judge Charles G. Briggle, and Edwin L. Covey, Chief of the Bankruptcy Division of the Administrative Office of the United States Courts, reported to the Judicial Conference at its meeting in March 1953 in pertinent part as follows:

> Your committee was unable to locate any case in which a claim had been filed by a minor, and in considering an amendment, this provision may be ignored. If a minor should be a claimant, the guardian or next friend who filed the claim would be in position to represent him and would have the same status as any other creditor.
>
> As a practical matter, except in the situations hereinafter described, section 66 (b) is seldom utilized. When a bankruptcy case has been closed, the trustee is discharged and the referee's authority is terminated. There remains no one to assume the responsibility of making a new distribution. It is too much to expect that a busy district judge or the clerk of court would initiate such a redistribution. Very often the funds remaining are so small in amount that the labor and cost involved in making a second distribution are not justified.
>
> However, in several States a practice has grown up which results in the payment of the balance of the unclaimed dividends to a so-called diligent creditor, thus making it impossible for any of the other creditors thereafter to receive their pro rata share of such funds. The diligent creditor files a petition stating his claim has not been paid in full, and makes claim for the unclaimed funds for himself and other creditors who may join him. A published notice of his application has been held to be sufficient (*In Re Searles*, 2 Cir., 166 F. 2d 475). Usually no other creditor appears and all of the funds are ordered paid to the diligent creditor. The

committee is informed that in New York one attorney devotes much of his time in prosecuting petitions for diligent creditors. This was also formerly the case in Chicago due to the activities of one attorney, but since his death such petitions have become infrequent.

Another development is that in New York and Pennsylvania, State escheaters closely follow the bankruptcy cases in which all of the funds have not been claimed by the creditors entitled thereto. Such officers have commenced a number of proceedings asking that such funds be escheated to the State.

The Department of Justice, in a letter dated October 21, 1955, advises that whether the bill should be enacted involves a question of policy concerning which the Department has no recommendation.

The committee believes that the proposed legislation, requested by the Administrative Office of the United States Courts, which would provide for the handling of unclaimed moneys in bankruptcy proceedings in the same manner as all other unclaimed moneys in district courts are handled under section 2042 of title 28 of the United States Code, is meritorious and the committee recommends it favorably.

Attached and made a part of this report is a letter, dated May 2, 1955, from the Administrative Office of the United States Courts, in regard to the proposed legislation.

The text of section 2042 of title 28 of the United States Code is as follows:

SEC. 2042. WITHDRAWAL.

No money deposited shall be withdrawn except by order of court.

In every case in which the right to withdraw money deposited in court has been adjudicated or is not in dispute and such money has remained so deposited for at least five years unclaimed by the person entitled thereto, such court shall cause such money to be deposited in the Treasury in the name and to the credit of the United States. Any claimant entitled to any such money may, on petition to the court and upon notice to the United States attorney and full proof of the right thereto, obtain an order directing payment to him.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS,
Supreme Court Building,
Washington, D. C., May 2, 1955.

Hon. RICHARD M. NIXON,
Vice President of the United States,
Washington, D. C.

DEAR MR. VICE PRESIDENT: In the absence of Mr. Henry P. Chandler, Director of this office, I have the honor to transmit for the consideration of the Senate of the United States, the draft of a bill to amend subdivision a of section 66—Unclaimed Moneys—of the Bankruptcy Act as amended and to repeal subdivision b of such section. Section 66a now provides that dividends and other moneys which remain unclaimed for 60 days after the final dividend has been

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declared and distributed, shall be paid by the trustee into the court of bankruptcy. The regular registry account of the court is used for this purpose.

The amendment of subdivision a of section 66 would add at the end thereof a new sentence providing that unclaimed moneys and dividends shall be deposited and withdrawn as provided in title 28, United States Code, section 2042, and shall not be subject to escheat under the laws of any State. Section 2042 provides that moneys not withdrawn from the registry account within 5 years shall be deposited in the United States Treasury and that any claimant entitled thereto may upon petition to the court and upon notice to the United States attorney, obtain an order directing payment to him of any sum due him.

At its meeting in June 1952 the Judicial Conference of the Seventh Circuit adopted a resolution regarding the amendment of section 66b. This proposal was brought to the attention of the Judicial Conference of the United States in September 1952 and was referred to a special committee for study of the proposal and draft of an amendment (see Report of the Judicial Conference, September session 1952, pp. 11 and 12).

The Special Committee consisting of United States Circuit Judge F. Ryan Duffy, Chairman; United States District Judge Charles G. Briggle, and Edwin L. Covey, Chief of the Bankruptcy Division of the Administrative Office of the United States Courts, reported to the Judicial Conference at its meeting in March 1953. The Judicial Conference in accordance with its usual practice, directed that the report be circulated among the circuit and district judges; that the judges and the judicial conferences and the judicial councils of the circuits be requested to express their views upon the report and the proposed amendment; that all views expressed be communicated to the Committee on Bankruptcy Administration of the Judicial Conference at its next regular meeting (see Report of the Judicial Conference, special session, March 1953, pp. 11 and 12).

The report was circulated as directed and the views expressed communicated to the Bankruptcy Committee. This Committee recommended, and the Judicial Conference approved, that section 66a be amended by adding a sentence at the end thereof so that as amended it would read as follows:

"Dividends or other moneys which remain unclaimed for sixty days after the final dividend has been declared and distributed shall be paid by the trustee into the court of bankruptcy; and at the same time the trustee shall file with the clerk a list of the names and post-office addresses, as far as known, of the persons entitled thereto, showing the respective amounts payable to them. *Such moneys and dividends shall be deposited and withdrawn as provided in Title 28, U. S. C., Section 2042, and shall not be subject to escheat under the laws of any state.*" [Matter in italic indicates the amendment.] (See Report of the Judicial Conference, September session 1953, pp. 10 and 11.)

Section 66b of the Bankruptcy Act now provides as follows:

"Dividends remaining unclaimed for one year shall, under the direction of the court, be distributed to the creditors whose claims have been allowed but not paid in full, and after such claims have been paid in full the balance shall be paid to the bankrupt; *Provided,*

That, in case unclaimed dividends belong to minors, such minors may have one year after arriving at majority to claim such dividends."

With the amendment above proposed, section 66b is no longer needed. The Bankruptcy Committee recommended, and the Judicial Conference approved, the repeal of section 66b (see report of the Judicial Conference, September session 1953, pp. 10 and 11).

A bill (H. R. 8209) was introduced in the 83d Congress carrying out the proposals but was not acted upon. The Judicial Conference at its meeting in September 1954 upon the recommendation of its Bankruptcy Committee reaffirmed its previous approval of the measure (see Report of the Judicial Conference, September session 1954, pp. 14 and 15).

With great respect, I am,

Sincerely yours,

ELMORE WHITEHURST.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics, existing law in which no change is proposed is shown in roman, matter to be stricken is enclosed in brackets):

SECTION 66 OF THE BANKRUPTCY ACT OF JULY 1, 1898, AS AMENDED (11 U. S. C., SEC. 106)

SEC. 66. UNCLAIMED MONEYS.

(a) Dividends or other moneys which remained unclaimed for sixty days after the final dividend has been declared and distributed shall be paid by the trustee into the court of bankruptcy; and at the same time the trustee shall file with the clerk a list of the names and post-office addresses, as far as known, of the persons entitled thereto, showing the respective amounts payable to them. *Such moneys and dividends shall be deposited and withdrawn as provided in title 28, United States Code, section 2042, and shall not be subject to escheat under the laws of any State.*

[(b) Dividends remaining unclaimed for one year shall under the direction of the court be distributed to the creditors whose claims have been allowed but not paid in full, and after such claims have been paid in full the balance shall be paid to the bankrupt: *Provided*, That, in case unclaimed dividends belong to minors, such minors may have one year after arriving at majority to claim such dividends.]

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Calendar No. 2771

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2723

AMENDING TITLE 18, ENTITLED "CRIMES AND CRIMINAL PROCEDURE," OF THE UNITED STATES CODE, TO PROVIDE A CRIMINAL SANCTION FOR THE EMBEZZLEMENT OR THEFT OF THE PROPERTY OF INDIAN TRIBAL ORGANIZATIONS

JULY 20 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. EASTLAND, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 6403]

The Committee on the Judiciary, to which was referred the bill (H. R. 6103) to amend title 18, entitled "Crimes and Criminal Procedure," of the United States Code, to provide a criminal sanction for the embezzlement or theft of the property of Indian tribal organizations, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of this bill is to provide a criminal penalty for any person who embezzles, steals or converts any property belonging to an Indian tribal organization or entrusted to the care of an officer, employee or agent of an Indian tribal organization.

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STATEMENT

The letter from the Secretary of the Interior regarding this measure is as follows:

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D. C., May 13, 1955.

Hon. RICHARD M. NIXON,
President of the Senate,
Washington, D. C.

MY DEAR MR. PRESIDENT: Enclosed is a draft of a proposed bill to amend title 18, entitled "Crimes and Criminal Procedure," of the United States Code, to provide a criminal sanction for the embezzlement or theft of the property of Indian tribal organizations.

We recommend that this proposed bill be referred to the appropriate committee for consideration, and we further recommend that it be enacted.

The principal objective of the proposed bill is to protect Indian tribal organizations, especially those created pursuant to the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), from the actions of dishonest or corrupt tribal officials. It provides for the punishment of persons holding positions of trust in tribal organizations who abuse their responsibilities by diverting tribal funds to their own pockets or those of their friends. It also provides for the punishment of other forms of theft or embezzlement from Indian tribal organizations. The terms of the bill are modeled upon such existing criminal laws as sections 641, 656, and 660 of title 18 of the United States Code.

The Indian Reorganization Act deals with a wide variety of subjects, including land, credit, education, and Indian employment. One of its chief designs was the development of Indian self-government. At the present time there are 195 tribes, bands, or identifiable groups under the act. Ninety-six of these groups have adopted constitutions and bylaws, and 73 of them have been granted charters permitting them to operate as chartered business organizations. In addition, there are some 77 tribes, bands, or identifiable groups which elected not to come under the Indian Reorganization Act but which are carrying on tribal affairs in some degree and are to some degree self-governing. A number of other Indian groups are organized under special laws pertaining to Oklahoma and Alaska.

During the years since the first group was organized under the Indian Reorganization Act, situations have been encountered from time to time that involved the misuse or misappropriation of tribal funds, the lack of adequate accounting records, or other improper actions by tribal officials. Occasionally, the same official has been guilty of repeated breeches of trust. Yet in most instances the creation of fiduciary positions has not been paralleled by corresponding safeguards in the law and order codes under which the tribes operate. Even in those instances where criminal sanctions are provided in the tribal codes, the tribal members have been extremely reluctant to bring actions in the tribal courts against apparently faithless tribal officials. The only practical recourse available to tribal members, therefore, has been to vote the malefactors out of office in the tribal elections.

Under authority of the Indian Reorganization Act, many Indian groups are qualified to obtain control of substantial sums of money derived from oil and gas leases, timber sales, and the like; to hold these funds in the tribal treasuries; and to expend them subject only to the limitations contained in the tribal constitutions and charters. In addition, under annual appropriation acts for the Department of the Interior and various special acts of Congress, tribal funds in the Treasury of the United States may be advanced to Indian tribes for such purposes as may be designated by the governing body of the particular tribe involved and approved by the Secretary of the Interior. In these circumstances, it is important that adequate penal safeguards be established to protect the tribal members from actions of dishonest or corrupt tribal officials and other types of peculation. This the proposed bill would do.

The Bureau of the Budget has advised that there is no objection to the submission of this proposed bill to the Congress.

Sincerely yours,

FRED G. AANDAHL,
Assistant Secretary of the Interior.

The committee feels that in view of the recognized difficulty encountered as stated in the report from the Department of the Interior with obtaining the prosecution of persons who misused tribal property and after a careful consideration of the matters advanced in the said letter, that this measure be favorably considered.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is shown in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman type):

"§ 1163. Embezzlement and theft from Indian tribal organizations

"Whoever embezzles, steals, knowingly converts to his use or the use of another, willfully misapplies, or willfully permits to be misapplied, any of the moneys, funds, credits, goods, assets, or other property belonging to any Indian tribal organization or entrusted to the custody or care of any officer, employee, or agent of an Indian tribal organization; or

"Whoever, knowing any such moneys, funds, credits, goods, assets, or other property to have been so embezzled, stolen, converted, misapplied or permitted to be misapplied, receives, conceals, or retains the same with intent to convert it to his use or the use of another—

"Shall be fined not more than $5,000, or imprisoned not more than five years, or both; but if the value of such property does not exceed the sum of $100, he shall be fined not more than $1,000, or imprisoned not more than one year, or both.

"As used in this section, the term 'Indian tribal organization' means any tribe, band, or community of Indians which is subject to the laws of the United States relating to Indian affairs or any corporation, association, or group which is organized under any of such laws."

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Calendar No. 2772

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2724

VALIDATING MILEAGE PAYMENTS MADE TO UNITED STATES ARMY AND AIR FORCE PERSONNEL FOR TRAVEL BY COMMERCIAL AIRCRAFT

JULY 20 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. EASTLAND, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 7121]

The Committee on the Judiciary, to which was referred the bill (H. R. 7121) to validate payments of mileage made to United States Army and Air Force personnel pursuant to permanent change of station orders authorizing travel by commercial aircraft, having considered the same, reports favorably thereon, without amendment, and recommends that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to validate payments of some $87,170 made to Army and Air Force personnel in the period January 1, 1950 through March 31, 1951, in accordance with instructions of the Departments of the Army and Air Force which were in violation of the governing statute and a ruling of the General Accounting Office.

STATEMENT

The proposed legislation was introduced at the request of the Secretary of the Army, and it has been designated as a part of the Department of Defense legislative program.

The enactment of the proposed legislation is opposed by the Comptroller General of the United States.

The committee finds the view of the Comptroller General very persuasive.

These payments were illegal, and the committee condemns those in the Department of Defense who prepared the instructions under which the payments were made.

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It is with considerable reluctance that the committee recommends favorably the proposed legislation, requested by the Department, to validate these payments. The committee does so only because of the practical situation that the innocent disbursing officers are held responsible for the overpayments rather than the authors of the instructions, which were clearly illegal, under which the disbursing officers acted. The committee recommends the proposed legislation with notice to the Department that even such a practical consideration would not again be persuasive if in the future there is again presented to the committee a request for such validating legislation.

The Pay Readjustment Act of 1942, in the second paragraph of section 12 (56 Stat. 365), as amended by section 203 of the act of August 2, 1946 (60 Stat. 859), which was the governing statute when the payments which are here proposed to be validated were made, provides in pertinent part:

> That for travel by air under competent orders on duty without troops, under regulations to be prescribed respectively by the heads of the departments concerned, members (including officers, warrant officers, contract surgeons, enlisted men, aviation cadets, and members of the Nurse Corps) of the services mentioned in the title of this Act, and of the legally constituted Reserves of said services while on active duty, and of the National Guard while in Federal service, or while participating in exercises, or performing duties under sections 92, 94, 97, or 99 of the National Defense Act, shall, in lieu of mileage or other travel allowances, be allowed and paid their actual and necessary traveling expenses not to exceed $8 per day, or, in lieu of subsistence, per diem allowances at rates not to exceed $7 per day.

It has long been established that where officers' travel orders authorize travel by alternative methods of travel, including commercial aircraft, and the traveler elects to travel by commercial aircraft, this is "travel by air under competent orders" for which per diem, not mileage, is payable. This was the subject of an opinion of the Comptroller General, dated November 12, 1938 (18 Comp. Gen. 450), printed in full below, in considering a similar provision contained in the act of March 2, 1931 (46 Stat. 1461).

On November 18, 1949, the Departments of the Army, the Navy, and the Air Force, issued Special Regulations No. 55–105–5, entitled "Transportation and Travel," which set forth, in pertinent part, the following:

> 3. Policy with respect to use of commercial transportation.—a. (1) the Department of Defense has entered into separate agreements with certain common carriers by railroad; certain common carriers of passengers by air; and certain common carriers of passengers by bus providing for allowances of 10, 10, and 5 percent, respectively, on passenger transportation of the Department for the fiscal year 1950. Certain common carriers of passengers by water are also embraced in the agreement reached with the railroads.
>
> (2) The railroad agreement is preferential and is applicable to all transportation furnished on transportation requests of the military agencies. Railroads will be used except that

> the Department reserves the right to use, in its discretion, other available transportation agencies in any case in which the officer arranging for the transportation determines that other available commercial transportation agencies (ship, bus, and air) can provide more satisfactory service than the railroads to meet the military requirements of the Government. (For personnel traveling in a mileage status see paragraphs 9a, 14, and 19.)
>
> (3) Under the provisions of all three agreements, actual rates, fares, and transportation charges may not be considered a determining factor in any specific case. Indirect savings accruing to the Government whenever and wherever personnel are in a travel status, exclusive of actual rates, fares, and transportation charges, should be given consideration along with service and should include possibilities of savings in total per diem time, if any, savings in productive time, also possibilities in savings in meals and sleeping accommodations paid for by the Government other than those purchased from a transportation agency. Only savings in productive time in regular working days should be used in considering savings in productive time.

A letter from the Chief of Finance, Department of Defense, dated January 6, 1956, printed in full below, referring to paragraph 3c, special regulations 55–105–5, quoted above, stated that if the traveler proceeded to his new permanent station by commercial air under such orders, he would be entitled to reimbursement on a mileage basis.

This was in clear violation of the governing statute and the applicable opinion of the Comptroller General.

This difficulty was recognized by the Chief of Finance, but he undertook to explain it away on the basis that the military agreements with the carriers, described in the special regulations quoted above—

> in effect modified the provisions of existing regulations and thereby negatived the basis for 18 Comptroller General 450 insofar as it pertains to reimbursement for authorized travel by commercial aircraft since said decision was based on regulations in effect prior to the change in military agreements and ensuing modification of regulation—

and that therefore—

> The principle set forth in 18 Comptroller General 450 is therefore not for application to travel performed on and after the modification of pertinent travel regulations.

This might have been a satisfactory explanation if in fact the decision of the Comptroller General had been "based on regulations," but the decision of the Comptroller General was not based on regulations but on the governing statute enacted by the Congress.

In effect the letter of the Chief of Finance undertook to amend the applicable provision of the Pay Readjustment Act of 1942, as amended by the act of August 2, 1946, without congressional approved or consideration.

In the letter of the Department of the Army, dated June 29, 1955, printed in full below, requesting, more than 5 years later, the introduction of remedial legislation, it is set forth that—

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The instructions of the departments were issued in good faith to assure equitable treatment in the reimbursement of expenses for authorized expenses, and at the time of issuance the departments were of the opinion that they were legally proper. It was determined by the departments that service members who traveled under orders which authorized all modes of transportation should be paid mileage at the rate of 8 cents per mile even though such service members traveled by commercial air. It was considered that the inclusion of the word "air" in the travel orders did not change the method of computation of the amount due the traveler.

After many payments had been made to service members in accordance with the instructions issued by the departments, the General Accounting Office refused to allow credit for these payments in the accounts of the disbursing officers. Some collections were made from payees immediately following suspensions in the disbursing officers' accounts, but that practice was discontinued because the payments had been made as directed by the departments. The General Accounting Office was requested to remove the exceptions taken in the disbursing officers' accounts, but that office continued to adhere to the position taken. A letter was then submitted to the Comptroller General of the United States explaining the reasons for issuance of the instructions by the departments and requesting that the exceptions be reviewed and that the payments be passed as valid payments. The Comptroller General in his reply (B–112337, dated December 22, 1952) did not agree with the instructions issued by the Departments of the Army and Air Force, and held that the explanation furnished was not a basis for removal of the audit exceptions in the accounts of the disbursing officers. The Comptroller General further held that when orders authorized travel by air, among other modes, and the travel was performed by commercial air that reimbursement should be made accordingly, holding as he did in 18 Comptroller General 450 relative to the provisions of the act of March 2, 1931 (46 Stat. 1461), "that where an officer's travel orders authorized travel by different modes of conveyances including commercial air, and the traveler elects to travel by commercial aircraft, such travel is considered to be travel by air under competent orders within the meaning of such provisions of law, for which per diem, not mileage, is payable."

As a result of the Comptroller General's decision, there have been technical overpayments in cases where payments were made between January 1, 1950 and March 31, 1951, to service members at the rate of 8 cents per mile for travel under orders which authorized travel by all modes of transportation when the travel was actually performed by commercial air. These technical overpayments do not represent any negligence on the part of disbursing officers but on the contrary were made as directed by the departments. It would be impracticable to collect from the recipients because of the size of each account and the cost of pursuing the collections. Further, it is considered inadvisable from a public-relations

standpoint and against equity and good conscience to make collections from the service members since the payments were made in accordance with instructions issued by the departments.

The Comptroller General of the United States, in a letter to the committee, dated May 14, 1956, printed in full below, recommending against the enactment of the proposed legislation, has commented:

> The proposed legislative relief seems to be grounded on the conclusion that it is against equity and good conscience to collect the erroneous payments because they were made in accordance with instructions issued by the departments. In our opinion instructions which are contrary to law issued at the department level afford no greater equity for retention of erroneous payments than any other administrative errors. Even if it be assumed that the recipients were aware of the instructions, such erroneous administrative instructions could have no greater effect as to them than to afford a basis for concluding that the erroneous payments were received in good faith. If receipt in good faith is regarded as a sufficient basis for authorizing the retention of erroneous payments, it well might be questioned whether the Government should, as a matter of policy, attempt to collect erroneous payments in any case, since most erroneous payments presumably are made and received in good faith. We do not on that account see any basis for singling out the payments here involved as being peculiarly deserving of legislative relief.
>
> The moral and legal obligation of the recipients to make restitution for overpayments is in no way lessened by euphemistically characterizing them as "technical overpayments." We know of no class of overpayments innocently made or received in violation of law which could not be denominated a "technical overpayment." Negligence or lack of negligence on the part of the disbursing officer has no bearing on the legality of an erroneous payment and, hence, such lack of negligence does not make the payees any less liable to refund erroneous and unlawful payments received by them.
>
> With respect to the matter of whether it would be impracticable to collect from the payees because of the size of each account and the cost of pursuing the collections, it is to be remembered that collections are required to be made and are accomplished with little difficulty and expense from members who are still in the service by withholding the amounts involved from their pay, as authorized in the act of May 26, 1936, as amended (5 U. S. C. 46b), and the act of July 15, 1954 (68 Stat. 482). While the amount of an overpayment and the cost of effecting collection may be such as to limit the extent of collection action in cases where the person concerned is no longer a member of the uniformed services, that fact would not seem to furnish a sufficient basis for wiping out the indebtedness entirely, and thus remove any possibility of effecting collection by setoff in the event of the submission and allowance of a claim against the Government at a later time. As to the equities, it may be pointed out that, since

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the personnel involved would have been fully compensated for actual expenses incurred had reimbursement been limited to the amounts authorized by law, what are now termed "technical overpayments" were in effect plain gifts of several times the amount the officers were entitled to receive for air travel.

We do not reommend favorable consideration of the bill.

Attached and made a part of this report are (1) a letter, dated June 29, 1955, from the Department of the Army, (2) a letter, dated May 14, 1956, from the Comptroller General, (3) a copy of the letter of the Chief of Finance, Department of Defense, dated January 6, 1950, and (4) a copy of the decision of the Comptroller General (18 Comp. Gen. 450) dated November 12, 1938.

DEPARTMENT OF THE ARMY,
Washington, D. C., June 29, 1955.

Hon. RICHARD M. NIXON,
President of the Senate.

DEAR MR. PRESIDENT: There is forwarded herewith a draft of legislation to validate payments of mileage made to United States Army and Air Force personnel pursuant to permanent change of station orders authorizing travel by commercial aircraft, and for other purposes.

This proposal is a part of the Department of Defense legislative program for 1955, and it has been approved by the Bureau of the Budget. The Department of the Army, on behalf of the Department of Defense, recommends that it be enacted by the Congress.

PURPOSE OF THE LEGISLATION

The purpose of the proposed legislation is to validate certain payments made to Army and Air Force service members during the period January 1, 1950, through March 31, 1951, which payments were made in accordance with instructions of the Departments of the Army and Air Force. The payments in question were made to Army and Air Force service members for travel by commercial aircraft at the rate of 8 cents per mile under orders which authorized all modes of transportation.

The instructions of the departments were issued in good faith to assure equitable treatment in the reimbursement of expenses for authorized expenses, and at the time of issuance the departments were of the opinion that they were legally proper. It was determined by the departments that service members who traveled under orders which authorized all modes of transportation should be paid mileage at the rate of 8 cents per mile even though such service members traveled by commercial air. It was considered that the inclusion of the word "air" in the travel orders did not change the method of computation of the amount due the traveler.

After many payments had been made to service members in accordance with the instructions issued by the departments, the General Accounting Office refused to allow credit for these payments in the accounts of the disbursing officers. Some collections were made from payees immediately following suspensions in the disbursing officers' accounts, but that practice was discontinued because the payments

had been made as directed by the departments. The General Accounting Office was requested to remove the exceptions taken in the disbursing officers' accounts, but that Office continued to adhere to the position taken. A letter was then submitted to the Comptroller General of the United States explaining the reasons for issuance of the instructions by the departments and requesting that the exceptions be reviewed and that the payments be passed as valid payments. The Comptroller General in his reply (B–112337, dated December 22, 1952) did not agree with the instructions issued by the Departments of the Army and Air Force, and held that the explanation furnished was not a basis for removal of the audit exceptions in the accounts of the disbursing officers. The Comptroller General further held that when orders authorized travel by air, among other modes, and the travel was performed by commercial air that reimbursement should be made accordingly, holding as he did in 18 Comptroller General 450 relative to the provisions of the act of March 2, 1931 (46 Stat. 1461), "that where an officer's travel orders authorized travel by different modes of conveyances including commercial air, and the traveler elects to travel by commercial aircraft, such travel is considered to be travel by air under competent orders within the meaning of such provisions of law, for which per diem, not mileage, is payable."

As a result of the Comptroller General's decision, there have been technical overpayments in cases where payments were made between January 1, 1950 and March 31, 1951 to service members at the rate of 8 cents per mile for travel under orders which authorized travel by all modes of transportation when the travel was actually performed by commercial air. These technical overpayments do not represent any negligence on the part of disbursing officers but on the contrary were made as directed by the departments. It would be impracticable to collect from the recipients because of the size of each account and the cost of pursuing the collections. Further, it is considered inadvisable from a public-relations standpoint and against equity and good conscience to make collections from the service members since the payments were made in accordance with instructions issued by the departments.

COST AND BUDGET DATA

The enactment of this legislation will validate approximately $87,170 in the accounts of disbursing officers of the Army and the Air Force.

Sincerely yours,

ROBERT T. STEVENS,
Secretary of the Army.

[Enclosure in Department of the Army letter]

SECTIONAL ANALYSIS

Section 1: This section validates all payments of mileage made in accordance with departmental instructions to United States Army and Air Force personnel for travel performed by commercial aircraft pursuant to permanent change of station orders authorizing travel by commercial aircraft during the period January 1, 1950, through March 31, 1951.

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Section 2: This section authorizes the Comptroller General of the United States, or his designee, to relieve disbursing officers, including special disbursing agents of the Army and the Air Force from accountability or responsibility for any payments described in the act. Also, the Comptroller General of the United States, or his designee, is authorized to allow credits in the settlement of the accounts of such officers or agents for payments which appear to be free from fraud or collusion.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D. C., May 14, 1956.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary,
United States Senate.

DEAR MR. CHAIRMAN: Your letter of May 2, 1956, requests our report on H. R. 7121, a bill to validate payments of mileage made to Army and Air Force personnel pursuant to permanent change of station orders authorizing travel by commercial aircraft.

Section 12 of the Pay Readjustment Act of 1942 (56 Stat. 364), as amended by section 203 of the act of August 2, 1946 (60 Stat. 859), in effect when the travel here involved was performed, specifically provided that for travel without troops by air under competent orders, members of the uniformed services there mentioned "shall in lieu of mileage or other travel allowance, be allowed and paid * * * per diem allowances at rates not to exceed $7 per day." In considering the similar provisions contained in the act of March 2, 1931 (46 Stat. 1461), it was held in 18 Comptroller General 450 that where an officer's travel orders authorized travel by different conveyances including commercial aircraft, and the traveler elects to travel by commercial aircraft, such travel is considered to be travel by air under competent orders within the meaning of such provisions of law for which per diem, not mileage, is payable. Paragraph 72b, special regulations 35–4805–1, February 25, 1949, was to the same effect.

Paragraph 3*a* (1), special regulations 55–105–5, November 18, 1949, stated that the Department of Defense had entered into separate agreements with certain common carriers for travel by rail, air, bus, or ship which would result in savings to the Government on passenger transportation for the fiscal year 1950. Subparagraph *c* stated that in order to give effect to such agreements, travel orders normally would authorize travel by rail, bus, ship, or air.

Notwithstanding that the governing statute had not been materially changed, a letter from the Chief of Finance, dated January 6, 1950, referring to paragraph 3*c*, special regulations 55–105–5, November 18, 1949, relating to authorization in orders for travel by different modes of transportation including commercial aircraft, stated that if the traveler proceeded to his new permanent station by commercial air under such orders, he would be entitled to reimbursement on a mileage basis. The purported basis of that letter was the view that the military agreements with the carriers "in effect modified the provisions of existing regulations and thereby negatived the basis for 18 Comptroller General 450 insofar as it pertains to reimbursement for authorized travel by commercial aircraft since said decision was based on regulations in effect prior to the change in military agree-

ments and ensuing modification of regulations." It was further stated that "The principle set forth in 18 Comptroller General 450 is therefore not for application to travel performed on and after the modification of pertinent travel regulations."

While it may be that, as a partial consideration for a reduction in fares the services agreed to write orders which would not appear to discriminate against the airlines and normally would include authority to travel by air at the option of the traveler, such agreement could not operate to authorize reimbursement for air travel on any basis other than that provided in the above-quoted statute. Since our decision, 18 Comptroller General 450, was not based on regulations but on positive provisions of statutory law, the view that the military agreements with the carriers in effect modified applicable regulations and "thereby negatived the basis for 18 Comptroller General 450 insofar as it pertains to reimbursement for authorized travel by commercial aircraft" was clearly erroneous.

The proposed legislative relief seems to be grounded on the conclusion that it is against equity and good conscience to collect the erroneous payments because they were made in accordance with instructions issued by the departments. In our opinion instructions which are contrary to law issued at the department level afford no greater equity for retention of erroneous payments than any other administrative errors. Even if it be assumed that the recipients were aware of the instructions, such erroneous administrative instructions could have no greater effect as to them than to afford a basis for concluding that the erroneous payments were received in good faith. If receipt in good faith is regarded as a sufficient basis for authorizing the retention of erroneous payments, it well might be questioned whether the Government should, as a matter of policy, attempt to collect erroneous payments in any case, since most erroneous payments presumably are made and received in good faith. We do not on that account see any basis for singling out the payments here involved as being peculiarly deserving of legislative relief.

The moral and legal obligation of the recipients to make restitution for overpayments is in no way lessened by euphemistically characterizing them as "technical overpayments." We know of no class of overpayments innocently made or received in violation of law which could not be denominated a "technical overpayment." Negligence or lack of negligence on the part of the disbursing officer has no bearing on the legality of an erroneous payment and, hence, such lack of negligence does not make the payees any less liable to refund erroneous and unlawful payments received by them.

With respect to the matter of whether it would be impracticable to collect from the payees because of the size of each account and the cost of pursuing the collections, it is to be remembered that collections are required to be made and are accomplished with little difficulty and expense from members who are still in the service by withholding the amounts involved from their pay, as authorized in the act of May 26, 1936, as amended (5 U. S. C. 46b), and the act of July 15, 1954 (68 Stat. 482). While the amount of an overpayment and the cost of effecting collection may be such as to limit the extent of collection action in cases where the person concerned is no longer a member of the uniformed services, that fact would not seem to furnish a sufficient basis for wiping out the indebtedness entirely, and thus remove any

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possibility of effecting collection by setoff in the event of the submission and allowance of a claim against the Government at a later time. As to the equities, it may be pointed out that, since the personnel involved would have been fully compensated for actual expenses incurred had reimbursement been limited to the amounts authorized by law, what are now termed "technical overpayments" were in effect plain gifts of several times the amount the officers were entitled to receive for air travel.

We do not recommend favorable consideration of the bill.

Sincerely yours,

JOSEPH CAMPBELL,
Comptroller General of the United States.

DEPARTMENT OF THE ARMY,
OFFICE OF THE CHIEF OF FINANCE,
Washington, D. C., January 6, 1950.

CSACF-EB 245.6/674679 General.
Subject: Travel orders.
To: All disbursing officers and class B agent officers, zone of interior.

1. Under the provisions of paragraph 3c, SR 55-105-5—N-MC SR 1—AFR 75-38, November 18, 1949, travel orders are worded so as to utilize travel by railroad, bus, ship, and air, unless the exigencies of the service require that a specific type of transportation be utilized, if available. Where travel incident to a permanent change of station is performed by commercial air, and such mode of travel is not specifically directed, and the traveler does not avail himself of transportation requests, reimbursement will be made at the rate of 8 cents per mile, the cost of commercial air transportation being paid by the traveler. Where travel incident to a permanent change of station is performed by air under conditions obtaining in the preceding sentence, except that the traveler avails himself of transportation requests, reimbursement will be made at the rate of 8 cents per mile less the cost of the transportation furnished.

2. Where travel is performed in a temporary-duty status and the traveler purchases commercial air transportation, such mode of transportation not being specifically directed, reimbursement will be made as though travel had been performed by rail.

C. B. LENOW,
Colonel, FD, Chief, Receiving and Disbursement Division
(For the Chief of Finance).

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, November 12, 1938.

The Honorable the SECRETARY OF THE TREASURY.

SIR: There has been received your letter of October 25, 1938, as follows:

"There has been brought to the attention of this office your letter (A-97837), dated September 26, 1938, addressed to The Honorable the Secretary of War with reference to the use of Government trans-

portation requests for travel by air by officers when authorized or approved by competent authority. In this letter is stated in part as follows:

" 'Section 204 (c) of the act of June 23, 1938, cited, now authorizes the use of commercial aircraft when authorized or approved by competent authority and directs that Government transportation requests may be issued upon such authorizations, and it is further provided that the expense for air travel procured on transportation requests shall be allowed without regard to comparative costs of transportation by aircraft with other modes of transportation. The effect of this statute is to specifically authorize the use of commercial aircraft, when properly authorized or approved. The mileage laws have been held not applicable to travel ordered to be by air and the deduction of 3 cents per mile is not applicable to air transportation furnished on Government transportation request. In view therefore of the specific authority to utilize such mode of transportation, when properly authorized, the act of March 2, 1931, is clearly applicable when travel by commercial airplane is directed in orders. Accordingly, you are advised that where travel is ordered by commercial airplane under the provisions of section 204 (c) of the act of June 23, 1938, actual and necessary traveling expenses at rates not to exceed $8 per day, or, in lieu thereof, a per diem at rates not to exceed $6 per day under the cited act of 1931, may be paid Army officers for ordered travel by commercial aircraft.'

"In view of your decision that the mileage laws are not applicable to 'travel ordered to be by air' information is requested on the following points with respect to the performance of official travel on orders written as quoted herein:

" 'Proceed, on or about September 12, 1938, to New London, Conn., and such other points within the New York division as may be necessary, on official business of the Coast Guard. Upon completion of this duty, return to Washington, D. C., and resume your present status.

" 'The travel necessary to the execution hereof is required by the public interests. Travel may be performed by commercial carrier, commercial aircraft, privately owned conveyance, Government automobile, or by Coast Guard plane or surface craft, in your discretion. For travel performed by Government aircraft, a per diem allowance of $6, in lieu of actual expenses for subsistence, is authorized.

" 'The expense incident to the travel herein authorized is chargeable to travel allotment symbol No. 73.'

"(1) Is the travel noted in the above order 'travel ordered to be by air'?

"(2) Would an officer traveling under such orders accomplishing such travel by commercial aircraft on Government transportation request be entitled to reimbursement on a mileage basis?

"(3) Would the officer be entitled to reimbursement on a mileage basis if commercial air transportation were procured from personal funds of the officer and not on Government transportation request?

"(4) On what basis would reimbursement be made if a portion of the travel were accomplished by commercial aircraft and the remainder by land transportation?

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"Again, it has been the practice of the Coast Guard, based on the needs of the service, to issue orders to Coast Guard officers as follows:

" 'OCTOBER 1, 1938.

" 'From: Commandant.
" 'To: Lieutenant * * *.
" 'Subject: Temporary duty; orders; travel.

" '1. Proceed, on or about October 4, 1938, to Norfolk, Va., on official business of the Coast Guard. Upon completion of this duty, return to Washington, D. C. and resume your regular status.

" '2. The travel necessary to the execution hereof is required by public interests.

" '3. The expense incident to the travel herein authorized is chargeable to travel allotment symbol No. 73.

" 'By direction,'

"Information is requested in this respect on the following points:

"(1) Would an officer who traveled under these orders, if he performed such travel by commercial aircraft, procured on Government transportation request, be entitled to reimbursement on a mileage basis?

"(2) If your answer to the preceding question is in the affirmative, what deduction should be made for the transportation requests?

"(3) Would this officer, if he procured transportation by commercial aircraft with personal funds be entitled to reimbursement on a mileage basis?

"As your answer to the above questions are of great importance to this office in formulating regulations for the Coast Guard on this subject, an early reply will be greatly appreciated."

Section 204 (c) of the act of June 23, 1938 (52 Stat. 983, 984), provides reimbursement for the use of commercial aircraft, when authorized or approved by competent authority. There are thus two methods of travel authorized by law, land or water transportation, and transportation by air, and different methods of reimbursement provided according to which of the methods of travel is directed. Officers authorized to issue travel orders, should therefore be explicit in their direction to utilize commercial aircraft under the authority of the cited statute, but any clear authorization in competent orders for the use of such mode of transportation will be treated as sufficient to authorize payment of the cost of such mode of transportation, and make applicable to such travel the travel expenses prescribed by the act of March 2, 1931 (46 Stat. 1461).

Officers traveling under competent orders, which do not require or authorize the use of commercial aircraft, are entitled to mileage for the performance of the ordered travel, and if performed by commercial aircraft 3 cents per mile for all land grant involved over the shortest usually traveled route, together with the actual cost of transportation furnished via commercial air lines on Government transportation requests, will be for deduction from the officer's mileage, in accordance with the rule stated in A–34175, January 30, 1931. And see 8 Comptroller General 225 as to travel by Government airplane.

Giving application to the above stated rule, the orders first set out leave to the discretion of the officer the mode of transportation to be used by him in carrying out his orders and the travel allowance

to which he is entitled will be based on the mode of transportation actually utilized by him under the discretion vested in him under his orders. Your questions are answered in the order stated.

(1) If travel is actually performed by commercial aircraft, such transportation is considered to have been authorized by the order.

(2) No.

(3) No.

(4) The officer would be in an air-travel status for travel accomplished by commercial aircraft, and in a mileage status for travel accomplished by land transportation.

The latter orders, set out in your letter, do not designate the mode of transportation to be used, and your specific questions are answered in the order stated, as follows:

(1) The officer would be entitled to reimbursement on a mileage basis.

(2) Three cents per mile for land grant, if any, involved and the actual cost to the Government for the transportation furnished on transportation request for travel by commercial airline.

(3) Yes.

Your submission is answered accordingly.

Respectfully,

R. N. ELLIOTT,
Acting Comptroller General of the United States.

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Calendar No. 2773

84TH CONGRESS, 2d Session — SENATE — REPORT No. 2725

VALIDATING CERTAIN PAYMENTS TO MEMBERS OF NAVAL SERVICE

JULY 20 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. EASTLAND, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 8617]

The Committee on the Judiciary, to which was referred the bill (H. R. 8617) to validate certain payments made to members and former members of the naval service, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to validate payments of special pay for sea duty which were made to enlisted personnel of the naval service who served on the U. S. S. *Sequoia* during the period November 1, 1950, through February 28, 1954, and to those who served on vessels operating on the Great Lakes during the period November 1, 1950, through October 31, 1953.

STATEMENT

According to a letter from the Department of the Navy in support of this legislation, enlisted personnel serving on board the U. S. S. *Sequoia* (assigned to the use of the Secretary of the Navy) had been authorized to receive sea-duty pay pursuant to a special determination made by the Secretary of the Navy on November 30, 1945, effective as of July 1, 1945. This determination of the Secretary of the Navy was never canceled until the Comptroller General, during a review of such payments subsequent to the enactment of the Career Compensation Act of 1949 and the issuance of Executive Order 10168 of October 11, 1950, made a determination that enlisted men so serving were not entitled to pay for sea duty. Accordingly, as of March

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1, 1954, payment of sea-duty pay to such enlisted personnel was discontinued. The unlawful payments were made to 45 enlisted members, in the aggregate amount of $17,800 over the approximate 3½-year period, no part of which has yet been recovered.

With respect to payments made to the enlisted personnel assigned to vessels operating on the Great Lakes, the Chief of Naval Operations, following the issuance of Executive Order 10168 of October 11, 1950, which Executive order was issued pursuant to the terms of the Career Compensation Act of 1949, made a determination that enlisted personnel so serving on the Great Lakes were not serving on vessels "restricted to service in the inland waters of the United States" and so were entitled to sea duty pay beginning November 1, 1950. In making the above determination, the Chief of Naval Operations took the position that such vessels were not, in fact, restricted to the inland waters of the United States, since their degree of combat readiness was such that they might be ordered to sea at any time in the future.

When such determination and payments were questioned by the Comptroller General of the United States, the ALNAV was reviewed in September of 1953, at which time it was determined that the vessels which operated exclusively on the Great Lakes were, in fact, restricted to service in the inland waters of the United States, whereupon, payment of sea duty pay to enlisted personnel was administratively discontinued as of November 1, 1953.

The unlawful payments with respect to Great Lakes service were made to approximately 1,400 enlisted members, in an aggregate of about $136,000, of which approximately $23,000 has been recovered. The Navy Department states that these payments, when made, were considered to have been authorized for the type of duty for which they were made and they were accepted by the enlisted personnel in good faith and without the knowledge of their invalidity. Moreover, according to the Navy, a large number of these people have been separated from the service, making collection not only difficult, but expensive. With respect to an enforced checkage of the pay accounts of those remaining in the service, the Navy states that it would be a personal hardship and morale problem which could conceivably offset the value of any sums recovered.

Because of these latter reasons, the committee is willing to recommend favorable action on this bill, but would add a word of caution, not only to the Navy Department, but also to the other branches of the armed services that they should be most careful in their interpretation of the statutes relating to the pay and allowances to military personnel, when Congress has clearly indicated its intention as to the limitations to be placed on such fringe benefits.

Attached hereto for the information of the Senate is the above-referred-to letter from the Acting Secretary of the Navy.

DEPARTMENT OF THE NAVY,
OFFICE OF THE SECRETARY,
Washington, D. C., May 1, 1956.

Hon. RICHARD M. NIXON,
President of the Senate,
United States Senate, Washington, D. C.

MY DEAR MR. PRESIDENT: There is enclosed a draft of proposed legislation to validate certain payments made to members and former members of the naval service.

The Bureau of the Budget has advised that there would be no objection to the presentation of this proposal for the consideration of the Congress. It is recommended that this proposal be enacted.

PURPOSE OF THE LEGISLATION

The purpose of this proposed legislation is to validate payments of special pay for sea duty which were made to enlisted personnel of the naval service who served on the U. S. S. *Sequoia* during the period November 1, 1950, through February 28, 1954, and to those who served on vessels operating on the Great Lakes during the period November 1, 1950, through October 31, 1953.

Section 206 of the Career Compensation Act of 1949 (63 Stat. 811; 37 U. S. C. 237), authorizes special pay for sea duty for enlisted members of the uniformed services under regulations prescribed by the President. The pertinent provisions of these regulations, Executive Order 10168 of October 11, 1950, read as follows:

"SEC. 2. For additional pay purposes, and except as otherwise provided in section 3 hereof, sea duty shall mean duty performed by enlisted members:

"(a) While permanently assigned to a vessel, other than a vessel restricted to service in the inland waters of the United States or a non-self-propelled vessel, pursuant to orders issued by competent authority, including the periods not in excess of fifteen consecutive days each while on temporary additional duty ashore.

* * * * * * *

"(d) While on a vessel restricted to service in the inland waters of the United States or on a non-self-propelled vessel, but only on days when such vessel is actually operating outside of inland waters for a period of eight days or more in each case."

Exceptions were taken by the General Accounting Office to payments of sea duty pay made during the period November 1, 1950, through February 28, 1954, to enlisted personnel serving on board the U. S. S. *Sequoia*, and to payments of sea duty pay made during the period November 1, 1950, through October 31, 1953, to enlisted personnel serving on board vessels operating on the Great Lakes, because it was not established that such personnel were actually on sea duty within the meaning of that term as defined in sections 2 (a) and 2 (d) of Executive Order No. 10168 of October 11, 1950.

Payment of sea duty pay to enlisted personnel serving on board the U. S. S. *Sequoia* had been made since July 1, 1945, under a special determination made by the Secretary of the Navy on November 30, 1945, that service on board that vessel would constitute sea duty for pay purposes, effective as of July 1, 1945, As of that date the U. S. S. *Sequoia* was an active commissioned vessel under the administrative control of the Commandant, Potomac River Naval Command, and operationally assigned for such services as the Secretary of the Navy might direct. This determination of the secretary of the Navy was not canceled and as a consequence enlisted personnel serving on board the U. S. S. *Sequoia* continued to receive sea duty pay until these payments were questioned, when it was officially determined that this vessel was restricted to service in the inland waters of the United States, effective as of March 1, 1954. As of that date the payment of sea duty pay to enlisted personnel serving on that vessel was discontinued.

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Enlisted personnel assigned to vessels operating on the Great Lakes were authorized special pay for sea duty as those vessels were not considered as coming under the category of vessels restricted to inland waters of the United States because of the high state of combat readiness in which they were maintained and because of their potential deployment upon the high seas. In September 1953 the status of these vessels was reviewed and it was determined that the vessels which operated exclusively in the Great Lakes were in fact restricted to service in the inland waters of the United States. As a result of that action authorization for the payment of sea duty pay to enlisted personnel on these vessels was administratively discontinued as of November 1, 1953.

In the case of the U. S. S. *Sequoia* the payments for the period in question amounted to $17,800 for 45 enlisted members, none of which has as yet been recovered. In the case of the vessels operating on the Great Lakes the payments amounted to $136,000 for 1,400 enlisted members, of which approximately $23,000 has been recovered. These payments, when made, were considered to have been authorized for the type of duty for which they were made. The enlisted personnel who received them accepted them in good faith and without the knowledge of their invalidity. As a large number of these people have been separated from the service, collection from them would not only be difficult but expensive and would, in addition, certainly result in adverse publicity and reaction toward the Navy. Also, the enforced checkage against those still in the active service would create personal hardships and morale problems which could conceivably offset the value of any sums recovered.

The enactment of the subject proposed legislation, which would validate these payments, is strongly recommended.

COST AND BUDGET DATA

Enactment of this proposal would result in an additional cost to the Government of $23,000 for the refund of payments already recovered, plus an amount for the refund of whatever additional sums are recovered before the enactment of this proposed legislation.

Sincerely yours,

ALBERT PRATT,
Acting Secretary of the Navy.

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Calendar No. 2776

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2728

GRANTING THE CONSENT OF CONGRESS TO THE STATES OF ILLINOIS AND WISCONSIN TO ENTER INTO A COMPACT RELATING TO INTERSTATE PUBLIC-SCHOOL DISTRICTS WHERE AN EDUCATIONAL COMMUNITY EXTENDS INTO BOTH SUCH STATES

JULY 20 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. EASTLAND, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 9314]

The Committee on the Judiciary, to which was referred the bill (H. R. 9314) granting the consent of Congress to the States of Illinois and Wisconsin to enter into a compact relating to interstate public-school districts where an educational community extends into both such States, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

STATEMENT

The facts relating to this matter appear in House Report No. 2014 on H. R. 9314, 84th Congress, and are as follows:

> The purpose of this legislation is to grant the consent of Congress to the States of Illinois and Wisconsin to enter into an interstate compact relating to the cooperative operation of certain elementary and secondary schools in those States.
>
> Congress has already given its consent to interstate compacts relating to education. In August 1953 and again in August 1954 Congress consented to two interstate compacts dealing with higher education (Public Law 226 and Public Law 719, both 83d Cong.). Public Law 226 related to the so-called western educational compact, and concerned 11 Western States plus the Territories of Alaska and Hawaii.

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Public Law 719 related to the New England Board of Higher Education compact and concerned the States comprising the New England area. The instant bill would give congressional consent to a compact on elementary and secondary education between the States of Illinois and Wisconsin.

At the hearings it was stated that the necessity for this compact is based on the fact that the State of Illinois and the State of Wisconsin are consolidating school districts so as to provide more convenient and better educational facilities for their schoolchildren. In some instances, the students in certain school districts in Wisconsin bordering Illinois have to travel many miles to Wisconsin schools, whereas they will be permitted to attend, if this legislation is enacted, schools across the State border in Illinois which are only a few miles from their homes. Similar situations exist with regard to students in Illinois. In addition, the program will provide better buildings and equipment as well as better teaching facilities. It will eliminate many one-teacher schools and enable students to receive more specialized training and personal attention in consolidated schools where teachers may be made available for each grade and department.

It was pointed out that there are many fairly large towns, located near State lines, which have facilities that can be expanded at far less cost than would be required for the erection of new facilities in towns across the State line from them.

The committee is aware of no reason why school students in both these States should not be authorized to cross State lines to attend nearby schools. In fact, it feels that the present plan of mutual assistance between the States in seeking to provide better and more convenient educational facilities will greatly aid in their general welfare.

The report of the Department of Health, Education, and Welfare which is attached hereto, favors enactment of the legislation, and, according to the House report the Department of Justice has no objection to its enactment.

The committee, after review of the facts concerning this legislation, recommends it to the favorable consideration of the Senate.

The committee is of the opinion that an attempt of this nature between two States to cooperate in establishing more convenient educational facilities to the children of the States involved is a matter that should be encouraged. State lines, as such, should not in any sense be a bar to the welfare and education of the children of this Nation if adjoining States are constrained to help each other out.

Made a part of this report are the basic laws of Illinois (1955) act of July 13, 1955, and chapter 573, laws of 1955, of Wisconsin, which adopt the provisions of the compact to which the Congress is now asked to grant consent under this legislation.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
Washington, April 18, 1956.

Hon. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.

DEAR MR. CHAIRMAN: This letter is in response to your request of March 28, 1956, for a report on H. R. 9314, a bill granting the consent of Congress to the States of Illinois and Wisconsin to enter into a compact relating to interstate public school districts where an educational community extends into both such States.

The bill is apparently designed to meet the United States constitutional requirement (art. I, sec. 10) that the consent of Congress must be obtained before any State may enter into a compact with another State. The bill would give congressional consent for such a compact between the States of Illinois and Wisconsin relative to interstate public school districts where an educational community extends into both States.

There is a growing need for interstate agreements or compacts concerning procedures for formation and operation of school administrative units which cross State boundary lines. A strong trend exists in many sections of the country to form new school districts on the basis of natural communities; and, as a result, existing governmental boundary lines are more frequently being ignored.

It is the view of this Department that H. R. 9314 contains nothing that would run counter to existing Federal policies and programs relating to public education. We would, therefore, recommend that the bill be enacted by the Congress.

The Bureau of the Budget advises that it perceives no objection to the submission of this report to your committee.

Sincerely yours,

HEROLD C. HUNT, *Acting Secretary.*

[Laws of Illinois (1955), Act of July 13, 1955]

HOUSE BILL NO. 1236

AN ACT Authorizing the Governor to enter into a compact with other states concerning border school districts

Be it enacted by the people of the State of Illinois, represented in the general assembly:

SECTION 1. The Governor of this State is hereby authorized to enter into a compact on behalf of this State with any of the United States bordering this State and legally joining in such compact substantially in the following terms:

INTERSTATE COMPACT ON PUBLIC SCHOOL ADMINISTRATION

The contracting party States agree:

ARTICLE I—PURPOSE

The purpose of this compact is to create a pattern of organizations through which all the people of an educational community which crosses State lines may participate in the government of such unit.

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ARTICLE II—ORGANIZATION

The State superintendent of public instruction or similarly titled officer of the respective party states designated in the enabling acts approving this compact may by agreement provide for the establishment and operation of interstate public school districts for the operation of elementary and secondary schools.

ARTICLE III—SCOPE OF THE AGREEMENTS

Such agreements may cover:

(a) The establishment of an interstate school district.

(b) The allocation of costs of operation and capital expenditure between the portions of the district in each State.

(c) The scope of the educational program.

(d) The procedures whereby the electors in each State may participate in the formation of school policy.

(e) The allocation of State school aids.

(f) The determination of the State's laws under which the contracts for the purchase of materials, supplies and personal services will be made so as to prevent all conflict as to the applicable statutes. Arrangements shall be made for the employment of persons by one State only and for the pro rata reimbursement of that State for services rendered to citizens of another State, but no such agreement shall require that all employees be hired by a particular State.

(g) All other matters as are reasonably necessary to carry out the purposes set forth in article I.

ARTICLE IV—EFFECTIVE DATE

This compact shall become operative between any State and another State when, following the adoption of the compact by the legislatures of both such States, the appropriate officers of two States execute an agreement.

ARTICLE V—RENUNCIATION

This compact shall continue in effect and remain binding upon each executing party State until 6 months after any such State has given written notice of renunciation by the same authority which executed the agreement.

ARTICLE VI—SEVERABILITY

The provisions of this compact are severable.

SEC. 2. The Superintendent of Public Instruction of this State shall administer the provisions of the foregoing compact when the same becomes effective; shall collaborate with the compact administrators of the other States which join in the compact, in making rules to enforce the terms of the compact; and shall arrange for the discharge of any financial obligations incurred under the provisions thereof.

SEC. 3. The departments and officers of this State and its subdivisions shall enforce the provisions of the compact and take all action necessary and appropriate to effectuate the purposes and intent thereof.

LAWS OF WISCONSIN, CHAPTER 573, LAWS OF 1955

AN ACT To create 40.65 (3) (d) of the statutes, relating to payment of elementary tuition to out-of-State school districts

The people of the State of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 40.65 (3) (d) of the statutes is created to read:

40.65 (3) (d). In school districts authorized to operate and maintain elementary schools the board may, in all operating districts, but in suspended districts only until July 1, 1957, upon its own order provide for the enrollment of pupils in elementary schools located in States other than Wisconsin and pay for the tuition that accrues because of such enrollment and for the transportation costs necessitated by such enrollment of pupils who reside two miles or over from such out-of-State schools, from school district operation and maintenance funds until the following compact has been approved for the operation of interstate school districts between such State and Wisconsin but in suspended districts not later than July 1, 1957. The cost of such tuition shall be treated as a part of the cost of instruction of such districts and they shall be credited with the enrollment and average daily attendance of such tuition pupils for aids purposes as though they had been enrolled in the schools of the districts of their residence. The districts shall be entitled to receipt of aids for the transportation of such pupils on the same basis as though they had been transported to the schools of the districts of their residences.

SECTION 2. COMPACT AGREEMENT. The chief executive is hereby authorized to execute a compact on behalf of this State with States bordering Wisconsin legally joining therein for the operation of school districts bordering such boundaries in the following form:

INTERSTATE COMPACT ON PUBLIC SCHOOL ADMINISTRATION

The contracting party States agree:

ARTICLE I—PURPOSE

The purpose of this compact is to create a pattern of organizations through which all the people of an educational community which crosses State lines may participate in the government of such unit.

ARTICLE II—ORGANIZATION

The State superintendent of public instruction or similarly titled officer of the respective party States designated in the enabling acts approving this compact may be agreement provide for the establishment and operation of interstate public school districts for the operation of elementary and secondary schools.

ARTICLE III—SCOPE OF THE AGREEMENTS

Such agreements may cover:

(a) The establishment of an interstate school district.

(b) The allocation of costs of operation and capital expenditure between the portions of the district in each State.

(c) The scope of the educational program.

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(d) The procedures whereby the electors in each State may participate in the formation of school policy.

(e) The allocation of State school aids.

(f) The determination of the State's laws under which the contracts for the purchase of materials, supplies and personal services will be made so as to prevent all conflict as to the applicable statutes. Arrangements shall be made for the employment of persons by one State only and for the pro rata reimbursement of that State for services rendered to citizens of another State, but no such agreement shall require that all employees be hired by a particular State.

(g) All other matters as are reasonably necessary to carry out the purposes set forth in article I.

ARTICLE IV—EFFECTIVE DATE

This compact shall become operative between any State and another State when, following the adoption of the compact by the legislatures of both such States, the appropriate officers of two States execute an agreement.

ARTICLE V—RENUNCIATION

This compact shall continue in fact and remain binding upon each executing party State until six months after any such State has given written notice of renunciation by the same authority which executed the agreement.

ARTICLE VI—SEVERABILITY

The provisions of this compact are severable.

SECTION 3. ADMINISTRATION OF COMPACT. The Governor shall designate the State superintendent of public instruction or his counterpart to be compact administrator, and such designee shall administer the compact, and shall, acting jointly with like officers of other party States, make rules to enforce the terms of the compact.

SECTION 4. FINANCES. The compact administrator shall arrange for all payments necessary to discharge any financial obligations imposed upon this State or any subdivision thereof by this compact.

SECTION 5. COMPACT BINDING. The departments and officers of this State and its subdivisions shall enforce this compact and do all things appropriate to effect its purpose and intent which may be within their respective jurisdictions.

SECTION 6. CLOSED SCHOOL DISTRICT LAW NOT APPLICABLE. Pending the approval of this compact, the provisions of S. 40.08 of the statutes relating to the abolition of nonoperating school districts shall not apply to any school district which provides for the education of all its pupils at an out-of-State school.

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Calendar No. 2777

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2729

AMENDING THE BANKRUPTCY ACT AS TO THE MAILING OF ORDERS AND NOTICES TO THE COMMISSIONER OF INTERNAL REVENUE, THE COLLECTOR OF INTERNAL REVENUE, AND THE COMPTROLLER GENERAL

JULY 20 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. EASTLAND, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 9956]

The Committee on the Judiciary, to which was referred the bill (H. R. 9956) to amend subdivision (e) of section 58, Notices, of the Bankruptcy Act, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to amend the Bankruptcy Act so as to eliminate the requirement for the mailing of certain orders and notices to the Commissioner of Internal Revenue, the Collector of Internal Revenue, and the Comptroller General, which mailings have in practice proved unnecessary.

STATEMENT

The proposed legislation has been requested by the Administrative Office of the United States Courts. It is also recommended by the General Accounting Office and by the Treasury Department.

The Bankruptcy Act now requires in section 58 (e) that the clerk of the United States district court mail to the Commissioner of Internal Revenue and the Comptroller General of the United States a certified copy of every order of adjudication upon its entry; and to send a copy of the notice of the first meeting of creditors, stating the date of

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adjudication, to the Commissioner of Internal Revenue, the collector of internal revenue for the district in which the court is located, and to the Comptroller General of the United States.

In requesting the proposed legislation the Administrative Office of the United States Courts has pointed out that—

(1) Since the decentralization of the Internal Revenue Service, tax matters in bankruptcy cases are handled by the district director of the Internal Revenue Service who receives a notice of the first meeting of creditors and thereby is informed of the date of adjudication, and consequently the mailing of the order of adjudication by the court to the Commissioner of Internal Revenue appears unnecessary; and that

(2) the Comptroller General receives a copy of the notice of the first meeting of creditors, so that the mailing to him of the order of adjudication by the court serves no useful purpose.

The committee believes that the elimination of the requirement for the mailing of these orders and notices will relieve the courts of a burdensome duty which is of no value in practice, and accordingly the committee recommends the proposed legislation favorably.

Attached and made a part of this report are (1) a letter, dated March 8, 1956, from the Administrative Office of the United States Courts, (2) a letter, dated April 18, 1956, from the General Accounting Office, and (3) a letter, dated April 19, 1956, from the Treasury Department, all in support of the proposed legislation.

ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS,
March 8, 1956.

Hon. SAM RAYBURN,
Speaker of the House of Representatives,
Washington, D. C.

DEAR MR. SPEAKER: I have the honor to transmit for the consideration of the House of Representatives of the United States, a bill to amend subdivision e of section 58, Notices, of the Bankruptcy Act, as amended, relating to the mailing of orders and notices to the Commissioner of Internal Revenue, the Collector of Internal Revenue, and the Comptroller General.

Section 58e of the Bankruptcy Act now provides:

"The clerk shall mail to the Commissioner of Internal Revenue and to the Comptroller General of the United States a certified copy of every order of adjudication forthwith upon the entry thereof. The court shall, in every case instituted under any provisions of this Act, mail, or cause to be mailed, a copy of the notice of the first meeting of creditors to the Commissioner of Internal Revenue, to the collector of internal revenue for the district in which the court is located, and to the Comptroller General of the United States. Whenever the schedules of the bankrupt, or the list of creditors of the bankrupt, or any other papers filed in the case disclose a debt to the United States acting through any department, agency, or instrumentality thereof, a notice of the first meeting shall be mailed as well to the head of such department, agency or instrumentality."

As will be observed the clerk of the United States district court is required to mail to the Commissioner of Internal Revenue at Wash-

ington and to the Comptroller General of the United States at Washington a certified copy of every order of adjudication forthwith upon the entry thereof. Also the court (which in most cases is the referee in bankruptcy) is required to send a copy of the notice of the first meeting of creditors, which states in it the date of adjudication, to the Commissioner of Internal Revenue, the collector of internal revenue for the district in which the court is located, and to the Comptroller General of the United States.

Since the decentralization of the Internal Revenue Service, tax matters in bankruptcy cases are handled by the district director of the Internal Revenue Service who receives a notice of the first meeting of creditors and thereby is informed of the date of adjudication. Consequently the mailing of the order of adjudication by the clerk of the court to the Commissioner of Internal Revenue at Washington appears to be unnecessary. Also the Comptroller General receives a copy of the notice of the first meeting of creditors, so that the mailing to him of the order of adjudication by the clerk of the court serves no useful purpose. Accordingly both the Commissioner of Internal Revenue and the Comptroller General have advised us that mailing of the certified order of adjudication by the clerk may be discontinued. If this is done, it would relieve the clerk of the court of this work which, with some 60,000 cases filed annually, is often a burden. Furthermore the offices of the Commissioner of Internal Revenue and the Comptroller General desires to be relieved from handling and processing this order. If the amendment of section 58e now proposed is enacted into law, the Internal Revenue Service will rely on the notice of the first meeting of creditors sent to the district director and the Office of the Comptroller General likewise will rely on the notice sent to him. No change is made with regard to the notices to be mailed where the schedules of the bankrupt or other papers filed in the case disclose a debt to the United States acting through any department, agency, instrumentality thereof except, for any internal revenue obligation payable to the Secretary of the Treasury or his delegate. Here again the Internal Revenue Service will rely on the notice of the first meeting of creditors sent to the district director so that even though the Internal Revenue Department is listed as a creditor, no additional copy of the first-meeting notice need be sent to the Commissioner of Internal Revenue in Washington. This for the reason that the Commissioner's office will not be organized to handle such notices in Washington.

A proposed revision of section 58e has the approval of the Internal Revenue Service and the Comptroller General's office. It also has been approved by the Judicial Conference of the United States. (See report of the September 1955 session, pp. 17 and 18.)

As thus amended section 58e would read as follows:

"The court shall, in every case instituted under any provisions of this Act, mail or cause to be mailed a copy of the notice of the first meeting of creditors to the district director of internal revenue for the district in which the court is located, and to the Comptroller General of the United States. Whenever the schedules of the bankrupt, or the list of creditors of the bankrupt, or any other papers filed in the case disclose a debt to the United States acting through any depart-

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ment, agency, or instrumentality thereof (except for any internal revenue obligation payable to the Secretary of the Treasury or his delegate), a notice of the first meeting shall be mailed as well to the head of such department, agency, or instrumentality."

With great respect, I am

Sincerely yours,

HENRY P. CHANDLER.

GENERAL ACCOUNTING OFFICE,
COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D. C., April 18, 1956.

Hon. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives.

DEAR MR. CHAIRMAN: Further reference is made to your letter of April 13, 1956, acknowledged April 16, regarding a hearing to be held at 10 a. m. on Friday April 20, 1956, on H. R. 9956, entitled "A bill to amend subdivision e of section 58, Notices, of the Bankruptcy Act, as amended."

Section 58e of the Bankruptcy Act (11 U. S. C. 94), as amended by Public Law 74, 82d Congress, approved July 3, 1951, now requires that the clerk shall mail to the "* * * Comptroller General of the United States *a certified copy of every order of adjudication* forthwith upon the entry thereof * * *" and that the court shall "* * * in every case instituted under the provisions of this Act, mail, or cause to be mailed, a copy of the notice of the first meeting of creditors to * * * the Comptroller General of the United States * * *." [Emphasis supplied.]

Representatives of our Office have met with the Chief of the Division of Bankruptcy, Administrative Office of the United States Courts, and officials of the Department of Justice, the Internal Revenue Service, and the Federal Housing Administration, to discuss the problems relating to the sending of notices in bankruptcy. It has been disclosed that by virtue of the present requirements of the Bankruptcy Act, an estimated volume of 6 million notices in bankruptcy matters were issued during the past fisscal year by clerks of the United States district courts and referees in bankruptcy. Because of the tremendous workload, involving considerable effort and expense, it was concluded that the Director, Administrative Office of the United States Courts, would propose an amendment to the act so as to reduce to a minimum the number of notices actually needed by the parties in interest, without prejudicing the rights of the United States.

By letter of August 5, 1955, we advised the Director that since the date set for the first meeting of creditors fixes the period of limitations for filing a proof of claim in a bankruptcy proceeding, the notice of the first meeting of creditors, rather than the notice of adjudication, is regarded as the controlling notice insofar as the needs of this Office are concerned, and that the furnishing here of notices of adjudication no longer serves any useful purpose.

Under the proposed amendment only notices of the first meeting of creditors are required to be mailed to the district directors of inter-

nal revenue and to the Comptroller General of the United States. We are in full agreement with the purpose to be accomplished by H. R. 9956, and we recommend its enactment.

Sincerely yours,

JOSEPH CAMPBELL,
Comptroller General of the United States.

TREASURY DEPARTMENT,
Washington, D. C., April 19, 1956.

Hon. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.

MY DEAR MR. CHAIRMAN: Reference is made to your letter of April 13, 1956, transmitting for consideration copies of H. R. 9956 (84th Cong., 2d sess.), entitled "A bill to amend subdivision e of section 58, Notices, of the Bankruptcy Act, as amended." An expression of the Department's views on the proposed legislation was requested.

The proposed legislation would amend section 58e of the Bankruptcy Act (11 U. S. C. 94 (e)) so as to reduce the volume of paper work in a number of different offices. The clerks of United States district courts are now required to send certified copies of every order of adjudication to the Commissioner of Internal Revenue and the Comptroller General. The bill would eliminate this requirement entirely. This elimination would simplify the work of the clerks of court who, we understand do not send out the other notices in bankruptcy, which are handled by referees and trustees in bankruptcy.

At present the bankruptcy court is required to send "a copy of the notice of the first meeting of creditors to the Commissioner of Internal Revenue, to the collector of internal revenue for the district in which the court is located, and to the Comptroller General of the United States." The bill eliminates the copy for the Commissioner and substitutes the district director of internal revenue for the collector.

Sometimes the papers in a bankruptcy case disclose a debt owing to the United States and payable to some particular "department, agency or instrumentality thereof." Under present law, in that event, a notice of the first meeting of creditors must be sent to the head of such "department, agency or instrumentality." The bill excepts "any internal revenue obligation payable to the Secretary of the Treasury or his delegate" from this requirement.

The effect of the bill upon the Treasury Department is that it repeals statutory requirements for sending notices to the Secretary of the Treasury or the Commissioner of Internal Revenue in ordinary liquidating bankruptcy cases in which the only Treasury claims against the bankrupt are for internal revenue taxes and cases in which the Treasury has no claims whatever. Portions of the Bankruptcy Act dealing with the rehabilitation instead of the liquidation of distressed enterprises contain other notice provisions not affected by the bill. For example see section 266 of the Bankruptcy Act (11 U. S. C. 666). The bill also does not affect the notices of the first meetings of creditors now sent to the district directors of internal revenue in their capacity as successors of the former collectors.

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Internal revenue procedures have been much changed since section 58e took its present form. District directors and the regional offices of the Chief Counsel of the Internal Revenue Service now have much greater responsibility in brankruptcy cases than formerly. Normally such cases are no longer considered in the National Office of the Chief Counsel except when it is necessary to make a recommendation to the Department of Justice concerning some unfavorable court action, such as the disallowance of a proof of claim. Under present practice the notices to this Department to be eliminated by this bill are immediately forwarded to district directors of internal revenue, sometimes in the most distant parts of the country.

For the foregoing reasons, the Department is in favor of the enactment of H. R. 9956.

The Director, Bureau of the Budget, has advised the Treasury Department that there is no objection to the presentation of this report.

Very truly yours,

DAN THROOP SMITH,
Special Assistant to the Secretary in Charge of Tax Policy.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics, matter to be striken is enclosed in brackets):

SECTION 58 E OF THE BANKRUPTCY ACT OF JULY 1, 1898, AS AMENDED (11 U. S. C., SEC. 94 e)

[(e) The clerk shall mail to the Commissioner of Internal Revenue and to the Comptroller General of the United States a certified copy of every order of adjudication forthwith upon the entry thereof. The court shall, in every case instituted under any provisions of this Act, mail, or cause to be mailed, a copy of the notice of the first meeting of creditors to the Commissioner of Internal Revenue, to the collector of internal revenue for the district in which the court is located, and to the Comptroller General of the United States. Whenever the schedules of the bankrupt, or the list of creditors of the bankrupt, or any other papers filed in the case disclose a debt to the United States acting through any department, agency, or instrumentality thereof, a notice of the first meeting shall be mailed as well to the head of such department, agency or instrumentality.]

(e) The court shall, in every case instituted under any provisions of this Act, mail or cause to be mailed a copy of the notice of the first meeting of creditors to the district director of internal revenue for the district in which the court is located, and to the Comptroller General of the United States. Whenever the schedules of the bankrupt, or the list of creditors of the bankrupt, or any other papers filed in the case disclose a debt to the United States acting through any department, agency, or instrumentality thereof (except for any internal revenue obligation payable to the Secretary of the Treasury or his delegate), a notice of the first meeting shall be mailed as well to the head of such department, agency, or instrumentality.

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Calendar No. 2778

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2730

BRINGING STATE SAVINGS AND LOAN ASSOCIATIONS WITHIN THE PROTECTION OF SECTIONS 657 AND 1006 OF TITLE 18, UNITED STATES CODE

JULY 20 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. EASTLAND, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 10111]

The Committee on the Judiciary, to which was referred the bill (H. R. 10111) to amend sections 657 and 1006 of title 18 of the United States Code to include within the purview of such sections certain State savings and loan associations, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to bring State-chartered savings and loan institutions whose deposits are insured by the Federal Savings and Loan Insurance Corporation within the protection of section 657 of title 18, United States Code, which provides criminal penalties for embezzlement and other types of defalcation; and within the protection of section 1006 of title 18, United States Code, which provides criminal penalties for the making of false entries and other types of fraudulent or unauthorized conduct.

STATEMENT

Section 657 of title 18, United States Code, and section 1006 of title 18, United States Code, apply to persons connected with savings and loan associations authorized or acting under the laws of the United States, but do not apply to persons connected with savings and loan associations chartered under State or local law and insured

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by the Federal Savings and Loan Insurance Corporation. The proposed legislation would amend these sections to make them apply to persons connected with such savings and loan associations.

The Federal Home Loan Bank Board favors the enactment of the proposed legislation; the Department of Justice advises that there appears to be no reason why the protection should not be extended; and the enactment of the proposed legislation is urged by the nongovernmental organization, the United States Savings & Loan League.

The committee believes that the proposed legislation is meritorious and recommends its enactment.

Attached and made a part of this report are (1) a statement dated April 25, 1956, submitted by the nongovernmental organization, the United States Savings & Loan League, (2) a letter, dated April 26, 1956, from the Federal Home Loan Bank Board, and (3) a letter, dated June 13, 1956, from the Department of Justice.

STATEMENT OF THE UNITED STATES SAVINGS & LOAN LEAGUE IN FAVOR OF S. 3531, PRESENTED TO THE SENATE JUDICIARY COMMITTEE, APRIL 25, 1956

The United States Savings & Loan League, which represents 4,300 member savings and loan associations and cooperative banks, heartily endorses S. 3531, a bill by Senator Dirksen to make it a Federal offense for employees of State-chartered savings and loan associations insured by the Federal Savings & Loan Insurance Corporation to embezzle or misappropriate funds of these institutions.

The effect of this bill if enacted into legislation would be to give the Federal Bureau of Investigation jurisdiction over embezzlements in State-chartered institutions which are insured by the FSLIC. Under existing law the FBI does not have this jurisdiction. However, in the case of State-chartered banks which are insured by the FDIC, existing law does make embezzelments in these institutions a Federal offense and the FBI does have jurisdiction.

S. 3531 would make the criminal statutes governing these two types of institutions identical. It would also provide a psychological deterrent to prospective embezzlers since the strong arm of the FBI would be permitted to investigate and prosecute offenders.

Embezzlements have become a more pressing problem to all financial institutions in recent years. Any reasonable step that Congress can take to reduce them is both commendable and necessary. It has long been the feeling of public officials and law-enforcement officers, as well as of the general public, that offenses involving, or under the jurisdiction of, the Federal Bureau of Investigation are somewhat less likely to occur than similar offenses involving State authorities only. The modern up-to-date investigative methods and efficiency of the FBI are, undoubtedly, a detriment to would-be offenders. It is hoped that this bill if enacted will reduce losses to institutions insured by the FSLIC and, correspondingly, reduce the contingent liability of the Federal Savings and Loan Insurance Corporation.

Not only does the business affected by this proposal strongly endorse it, but the Federal Home Loan Bank Board also favors the bill. The Board is appointed by the President of the United States by and with the consent of the Senate. Its three members have the responsibility

of supervising the Federal Home Loan Bank System and the Federal Savings and Loan Insurance Corporation. The only other agency or group affected by this legislation is the Federal Bureau of Investigation, and it has not opposed this legislation. This is significant since it is obvious that the lack of opposition in this instance is an implied endorsement.

Recent figures on the relative dollar amounts of embezzlements in State-chartered savings and loan associations and in those federally chartered, even though unduly weighted by one above-average case of State-chartered embezzlement, leave little doubt that the problem is felt more heavily among the State-chartered institutions. The United States Savings & Loan League recognizes the importance of working toward a solution of this problem of the State-chartered institutions, and hoping to bring to bear upon it every plausible remedy, respectfully requests that S. 3531 be given the earliest possible consideration by the committee, with the hope that the bill may be approved.

FEDERAL HOME LOAN BANK BOARD

FEDERAL HOME LOAN BANK SYSTEM

FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

FEDERAL SAVINGS AND LOAN SYSTEM

WASHINGTON, D. C., *April 26, 1956.*

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary,
United States Senate, Washington, D. C.

DEAR MR. CHAIRMAN: Reference is made to your letter to me dated March 27, 1956, requesting a report on S. 3531, a bill to amend sections 657 and 1006 of title 18 of the United States Code. Reference is also made to your letter of the same date to the General Manager of the Federal Savings and Loan Insurance Corporation requesting a report on the same bill. Since that Corporation is administered by the Federal Home Loan Bank Board this report is submitted in response to both of said letters.

The Federal Home Loan Bank Board favors the enactment of the proposed legislation.

As you know, the Federal Savings and Loan Insurance Corporation insures, up to a statutory limit of $10,000, the savings of members of the public in all Federal savings and loan associations (which are chartered, regulated, and supervised by the Federal Home Loan Bank Board) and in such State-chartered and locally chartered savings and loan associations and similar institutions as apply and are admitted to insurance.

While, under the Federal statute, insurance is mandatory for Federal savings and loan associations but is extended on an optional basis to State and locally chartered institutions, the risk underwritten by the Federal Savings and Loan Insurance Corporation is the same for

State and locally chartered institutions as for Federal savings and loan associations. Each applicant for insurance, whether or not it is federally chartered, is required by statute to agree to permit and pay the cost of such examinations as in the judgment of the Insurance Corporation may from time to time be necessary for its protection and the protection of other insured institutions, and to subject itself to certain types of regulation as set forth in title IV of the National Housing Act.

Section 657 of title 18 of the United States Code provides criminal penalties for embezzlement and other specified types of defalcation by persons connected with savings and loan associations authorized or acting under the laws of the United States. It does not provide similar penalties for such misconduct in the case of persons connected with savings and loan associations chartered under State of local law and insured by the Federal Savings and Loan Insurance Corporation. Likewise, section 1006 of title 18 provides criminal penalties for the making of false entries and other specified types of fraudulent or unauthorized conduct by persons connected with savings and loan associations authorized or acting under the laws of the United States, but does not provide similar penalties with respect to persons connected with State or locally chartered institutions which are insured by said Corporation.

It is felt that for the protection of the interest of the Government in the Federal Savings and Loan Insurance Corporation and the protection of the interests of the public and of institutions insured by the Corporation the scope of sections 657 and 1006 should be extended to apply in the case of State and locally chartered institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, and the present bill, S. 3531, would accomplish this purpose. It would also have the important though incidental effect of bringing the investigation of such cases within the jurisdiction of the Federal Bureau of Investigation to the same extent that such jurisdiction now exists in the case of Federal savings and loan associations with regard to matters within the scope of these two sections.

A similar need for protection has already been recognized in the Federal bank robbery statute (28 U. S. C. 2113), which applies not only with respect to Federal savings and loan associations but also with respect to State and locally chartered savings and loan associations whose accounts are insured by the Federal Savings and Loan Insurance Corporation. The specific need for extension of sections 657 and 1006 to such associations is pointed up by the fact that in the case of a recent shortage in a State-chartered insured association, the amount of which is presently estimated at more than $2,800,000, Federal prosecution and the use of the investigatory facilities of the Federal Bureau of Investigation were not available because of the lack of such legislation as is proposed by the present bill.

The Board has received informal advice from the Bureau of the Budget that there is no objection to the submission of this report.

Sincerely yours,

WALTER W. MCALLISTER, *Chairman.*

UNITED STATES DEPARTMENT OF JUSTICE,
Washington, D. C., June 13, 1956.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary,
United States Senate, Washington, D. C.

DEAR SENATOR: This is in response to your request for the views of the Department of Justice concerning the bill (S. 3531) to amend sections 657 and 1006 of title 18 of the United States Code to include within the purview of such sections certain State savings and loan associations."

In essence this bill would bring State-chartered savings and loan institutions whose deposits are insured by the Federal Savings and Loan Insurance Corporation within the protection of sections 657 and 1006 of title 18. The sections protect various lending, credit, and insurance institutions authorized or acting under the laws of the United States against certain misdeeds of their personnel.

Under existing law, State banks whose deposits are insured by the Federal Deposit Insurance Corporation are expressly protected by sections 656 and 1005 of title 18, sections analogous to 657 and 1006 except that they are applicable in the field of banking. There appears to be no reason why similar protection should not be accorded to the savings and loan institutions referred to in the bill.

Accordingly, the Department of Justice would have no objection to the enactment of this bill.

The Bureau of the Budget has advised that there is no objection to the submission of this report.

Sincerely,

WILLIAM P. ROGERS,
Deputy Attorney General.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics, existing law in which no change is proposed is shown in roman):

TITLE 18.—CRIMINAL CODE AND CRIMINAL PROCEDURE

* * * * * * *

§ 657. Lending, credit, and insurance institutions.

Whoever, being an officer, agent or employee of or connected in any capacity with the Reconstruction Finance Corporation, Federal Deposit Insurance Corporation, Home Owners' Loan Corporation, Farm Credit Administration, Federal Housing Administration, Federal Farm Mortgage Corporation, Federal Crop Insurance Corporation, Farmers' Home Corporation, the Secretary of Agriculture acting through the Farmers' Home Administration, or any land bank, intermediate credit bank, bank for cooperatives or any lending, mortgage, insurance, credit or savings and loan corporation or association authorized or acting under the laws of the United States, *or any institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation*, and whoever, being a receiver of any such institution, or agent or employee of the receiver, embezzles, abstracts,

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purloins or willfully misapplies any moneys, funds, credits, securities or other things of value belonging to such institution, or pledged or otherwise intrusted to its care, shall be fined not more than $5,000 or imprisoned not more than five years, or both; but if the amount or value embezzled, abstracted, purloined or misapplied does not exceed $100, he shall be fined not more than $1,000 or imprisoned not more than one year, or both (June 25, 1948, ch. 645, § 1, 62 Stat. 729; May 24, 1949, ch. 139, § 11, 63 Stat. 90).

* * * * * * *

§ 1006. Federal credit institution entries, reports and transactions.

Whoever, being an officer, agent or employee of or connected in any capacity with the Reconstruction Finance Corporation, Federal Deposit Insurance Corporation, Home Owners' Loan Corporation, Farm Credit Administration, Federal Housing Administration, Federal Farm Mortgage Corporation, Federal Crop Insurance Corporation, Farmers' Home Corporation, the Secretary of Agriculture acting through the Farmers' Home Administration, or any land bank, intermediate credit bank, bank for cooperatives or any lending, mortgage, insurance, credit or savings and loan corporation or association authorized or acting under the laws of the United States, *or any institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation*, with intent to defraud any such institution or any other company, body politic or corporate, or any individual, or to deceive any officer, auditor, examiner or agent of any such institution or of department or agency of the United States, makes any false entry in any book, report or statement of or to any such institution, or without being duly authorized, draws any order or bill of exchange, makes any acceptance, or issues, puts forth or assigns any note, debenture, bond or other obligation, or draft, bill of exchange, mortgage, judgment, or decree, or, with intent to defraud the United States or any agency thereof, or any corporation, institution, or association referred to in this section, participates or shares in or receives directly or indirectly any money, profit, property, or benefits through any transaction, loan, commission, contract, or any other act of any such corporation, institution, or association, shall be fined more than $10,000 or imprisoned not more than five years, or both (June 25, 1948, ch. 645, § 1, 62 Stat. 750; May 24, 1949, ch. 139, § 20, 63 Stat. 92).

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Calendar No. 2779

84TH CONGRESS, 2d Session } SENATE { REPORT No. 2731

PROHIBITING TRANSPORTATION OF WATER-HYACINTHS, ETC.

JULY 20 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. EASTLAND, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 11636]

The Committee on the Judiciary, to which was referred the bill (H. R. 11636) to amend chapter 3 of title 18, United States Code, relating to animals, birds, and fish, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of this bill is to make it a criminal offense to transport, sell, or advertise for sale, in interstate commerce, water-hyacinth plants, waterchestnut plants, or alligator grass.

STATEMENT

The water-hyacinth is indeed a very beautiful plant, producing a flower of unmatched beauty. At the same time, however, it is a menace to agriculture, industry, and wildlife, and a comprehensive program has been underway to provide for its progressive control and eradication from the rivers, channels, streams, and other allied waters such as lakes, ponds, bayous, marshes, swamps, etc., in the States of North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, and Texas. Its clogging of navigable streams and other waterways has caused heavy losses to commercial fishermen and trappers, greatly handicapped the oil and logging industries, suffocated game fish, and driven wildfowl from their winter nesting grounds. In the State of Louisiana alone the depredations of the water-hyacinth have been estimated by the Louisiana State Department of Wildlife and Fisheries at $55 to $65 million per year.

The water-hyacinth is a fresh water, free-floating plant with bulb-like bases and a bushy mass of fibrous roots. The plants grow together

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in a floating mat so dense that its wet weight per acre reaches 180 tons, and so buoyant that some can support a man's weight. Moving with the wind and currents, these mats have spread with devastating effect through the eight States enumerated above. Efforts, as will be pointed out, have been made to curtail their spread into other areas. Unfortunately, however, many tourists, in traveling through the already affected States, pick the hyacinths with their beautiful flower, and send them through the mails and via other means of transportation, to other States.

A program is underway in which the Corps of Engineers, in the interest of navigation, has been cooperating with several States in keeping navigable streams open to navigation. In addition, the House Committee on Public Works has made an intensive investigation into ways and means of completely eradicating these obnoxious aquatic plants. At the hearings before that committee, it was pointed out that it would be pointless to seek to eradicate this menace in the eight States which are at present substantially affected, and permit, at the same time, the spread of the hyacinth, waterchestnut, and alligator grass plants into other States. It was therefore proposed that the instant legislation be introduced, prohibiting the transportation, sale, or advertisement for sale of these plants in interstate commerce.

This legislation, if enacted, will complement legislation now actively being considered in the so-called omnibus river and harbor bill (H. R. 12080) in the House Public Works Committee, and S. 3392, now pending before the Senate Committee on Public Works.

Attached hereto is an interim report of the Department of the Army dated July 18, 1949, to the Chief of Engineers, United States Army, on water-hyacinth obstructions.

DEPARTMENT OF THE ARMY,
BOARD OF ENGINEERS FOR RIVERS AND HARBORS,
Washington, D. C., July 18, 1949.

800.84 (Water-Hyacinth Obstructions).
Subject: Water-Hyacinth Obstructions.
To: The Chief of Engineers, United States Army.

1. This interim report is submitted in response to the following resolution adopted February 6, 1945.

"*Be it resolved by the Committee on Rivers and Harbors of the House of Representatives, United States,* That the Board of Engineers for Rivers and Harbors created under section 3 of the River and Harbor Act, approved June 13, 1902, be, and is hereby requested to review the reports on water-hyacinth obstructions submitted in House Document No. 91, 55th Congress, 3d session, with a view to determining (*a*) whether any expansion of the scope of operations, or any change in the method now employed, for exterminating and removing the hyacinth plants and other marine vegetable growths from the waters of Louisiana, and such other States as are affected, is advisable at this time; (*b*) the nature and extent of the various public benefits that would accrue from such extermination and removal; and (*c*) the amount of local cooperation that may be warranted by reason of the local benefits; be it further

"*Resolved,* That this action be taken with the view of determining the estimated cost of permanently eliminating the hyacinth plants and other marine vegetable growths from these streams, and that the

cooperation of the Fish and Wildlife Service of the Department of the Interior, and the Department of Agriculture and the United States Public Health Service be solicited, since the aforementioned obstruction of such streams affects the fishing industry, agriculture and health conditions."

It is also in review of the interim reports on Lake Okeechobee and its tributary streams, Florida, with a view to removing the water-hyacinth, authorized by the River and Harbor Act approved March 2, 1945. Due to the nature of the problems involved it is not possible to present a final plan for eradication of marine plant growths without further extensive research and field operations. For this reason, an interim report is submitted recommending a 5-year program of increased scope of operations in the States of North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, and Texas. Based on experience gained through this program a final report under the authorization will be submitted at a later date.

2. This report is based on data contained in 3 field committee reports covering the 3 Corps of Engineers' divisions along the gulf coast. Each committee was composed of four members consisting of a representative of the Corps of Engineers, who served as chairman, and a representative of each of the Federal agencies, the Fish and Wildlife Service of the Department of the Interior, the Department of Agriculture, and Public Health Service. Each report is signed by all members of the committee and represents the coordinated views of the participating agencies. The three field committee reports are attached hereto as appendixes.

3. The water-hyacinth is a fresh-water free-floating plant with bulblike leaf bases and a bushy mass of fibrous roots 6 to 24 inches long. It has dark green leaves and a spike of lavender flowers, and is variable as to form and size. After 24 to 48 hours, the flower fades and the stalk bends so as to thrust the flower spike with its seed pods under the water surface. After ripening, the seeds are released and either settle to the bottom of the water or become enmeshed in the mat of floating vegetation. They may remain viable under water for 7 years or more. Two crops of plants will mature directly from the seeds during warm weather months, and a third crop will be in such condition as to mature early in the following spring. The principal method of reproduction is by stolons which develop rapidly into healthy plants that generally break away from the parent plant and emit their own individual stolons. The plants have a water content of 94 percent. They form a dense mat on the water and are capable of doubling in area every month of the growing season. They will not survive in salt water.

4. The alligator weed is a vinelike plant that spreads over both land and water. The leaves are large and succulent in the early spring and somewhat smaller in the late summer. The flowers are whitish and somewhat like clover. The plant propagates entirely from fragmentation of the stems and roots as normally it does not produce seed in the latitude of the United States. The stems branch and rebranch and when on water form a dense mat that may extend 15 to 25 feet from the bank. The plant occurs in fresh waters, swamps, marshlands, and other lowlands adjacent to streams and bayous. It will also survive and grow in brackish waters.

5. The water-hyacinth and alligator weed occur in Florida, Alabama, Mississippi, Louisiana, and Texas. There is also some evidence

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of the existence of the water-hyacinth in Georgia, and of the alligator weed in South Carolina and the Tennessee Valley. The thick mats formed on the water surface, frequently extending from bank to bank, become a menace to navigation, flood control, drainage, and fish and wildlife. In many localities, navigation must cease until the waterways are cleared. The mats clog vessel propellers, shafts, cooling systems, and rudders; cause jams at bridges; and increase navigation hazards for all traffic by masking floating logs and snags. They retard runoff thereby interfering with flood control and drainage; impede and often block pump intakes thereby adversely affecting irrigation; deplete the oxygen in the water and thus adversely affect fish and wildlife; and interfere with the utilization of resources that furnish recreation, food, and a livelihood to many hunters, fishermen, and trappers. The average annual damage caused by the growths in Louisiana alone amounts to $37,993,000 of which $19,557,000 is to agriculture as a result of the adverse effects on flood control and drainage, $14,727,000 to fish and wildlife, $1,875,000 to navigation, $1,584,000 to drainage systems, and $250,000 to public health. The total average annual damage in Florida, Alabama, Georgia, and Mississippi amounts approximately to $5 million.

6. The existing project authorized by Congress in 1899 and subsequently modified provides for the destruction or removal of the water-hyacinth in the navigable waters of Florida, Alabama, Mississippi, Louisiana, and Texas, so far as they constitute an obstruction to commerce, using any mechanical, chemical, or other means whatsoever, except that in Florida the act of 1905 prohibits the use of chemicals injurious to cattle; for the construction and operation of boats equipped with machinery suitable for such destruction or removal; and for the use of booms to close sloughs and backwaters and prevent the plants from drifting from one stream to another. In the States of Florida, Alabama, and Mississippi, the total cost to June 30, 1948, has been $1,344,869, all charged to maintenance. The average annual cost during the past 5 years has been $68,399 which has served only to keep the principal navigable waterways reasonably clear for navigation. In Louisiana, expenditures to June 30, 1919, totaled $328,200, and since that date they have increased from $18,066 for the fiscal year 1920 to an estimated $407,900 for the fiscal year 1949. In 1907 an allotment of $500 was made by the Federal Government for removal of water-hyacinths from Buffalo Bayou and areas in the vicinity of Houston, Tex. No Federal expenditures for this purpose have been made in Texas since 1909. Local interests in Texas have expended more than $13,000 attempting to exterminate the water-hyacinth in scattered areas.

7. Local interests desire complete control of the water-hyacinth and alligator weed in order that an end may be made to the widespread damage which these aquatic plants cause.

8. Methods of attacking the water-hyacinth and alligator weed in navigable waters have been developed largely by the Corps of Engineers and are now used in maintenance operations. They include drifting or floating the plants to salt water, booms and barricades, heavy-duty roll crushers or destroyers, saw-boat destroyers, and chemicals, as described below:

(*a*) By drifting and floating, the growth is cut from its anchorage to the streambank and into maneuverable sizes by a saw boat, and

then started downstream with the current on its way to salt water and destruction. This method is cheap and large quantities of vegetation can be moved under favorable conditions.

(*b*) Booms and barricades are used to trap the vegetation in secondary streams where it can be destroyed at the convenience of the destruction units. The barricade consists of small cypress piles driven on 5-foot centers. The structure is installed just beyond the channel limits in wide, shallow, lake areas to prevent the vegetation from drifting into the waterway. Where feasible, similar structures are installed across the entrances of tributaries. When secondary waterways are used for navigation, swinging floating booms are employed which can be opened and closed at will. These devices, although physically effective, have not always been entirely satisfactory because they interfere with the use of the streams by trappers, fishermen, oil prospectors, moss pickers, and others.

(*c*) The heavy-duty roll crusher or destroyer developed by the Corps of Engineers is a large self-propelled unit with a conveyor mounted over the bow of the steel hull, its lower end submerged so as to lift the vegetation from the water as the machine advances up the infested stream. Cutoff saws mounted on each side of a 15-foot conveyor just forward of the pickup point cut the mat into the proper width for effective feeding of the conveyor. The vegetation is deposited in a hopper from which it is fed between two heavy rollers and crushed. The refuse is then dropped onto a cross conveyor under the rollers and carried over the side of the hull back into the water in form of sludge. The plants are physically injured to the extent that further growth or regrowth is impossible and the residue quickly sinks to the bottom to decay. In Louisiana the cost of clearing by this method has averaged about $40 per acre.

(*d*) The saw-boat destroyer operates somewhat as a seagoing lawn mower. The equipment developed and improved by the Corps of Engineers and used principally in Florida consists of a specially built boat about 17 feet long, with a beam of 6 feet. Mounted on outriggers across the bow of the boat is a horizontal axle carrying a group of cotton-gin circular saws about 12 inches in diameter, spaced five-eighths of an inch apart. A bank of similar saws is bracketed at each side of the stern. Four 18-inch-diameter saws are mounted on the forward axle, 1 at each end and 2 in the middle, to cut through the roots and section the matted mass into strips, facilitating the passage of the boat. The forward bank of saws cuts a swath 6 feet wide and each stern bank cuts one 3 feet wide. With overlap, the total width of cut is about 10 feet. The saws are spun at about 1,000 revolutions per minute by a 50-horsepower gasoline engine. The whirling saws shred the hyacinth leaves and rhizomes, leaving behind a floating mass of shredded material which decomposes and sinks to the bottom in about 2 weeks. In ordinary operation, an initial kill of 95 percent of the material cut over has been realized. The equipment used in Louisiana is about 20 feet wide, has a capacity of 10,000 square yards per hour, and requires a pusher boat. It tears and bruises the heaviest portions of the plants which quickly sink to the bottom and decay. The machine is effective in opening waterways quickly and preparing the way for chemical destruction of the fringes which cannot be reached by mechanical means. Depending on the size and density of the plants, the cost of clearing may vary from $3.50 to $35 per acre.

(*e*) The most effective weed-killing chemical yet discovered, which

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is nontoxic to humans and animals, is 2,4-dichlorophenoxyacetic acid, commonly called 2,4–D. It is mixed with water or a light fuel oil and sprayed on the plants which wither and die after 2 or 3 applications over a period of 2 to 4 weeks. Spraying from airplanes has been accomplished successfully where large areas of plants exist. For fringes and inaccessible areas, spraying is accomplished more economically from boats. Under favorable conditions and with careful and effective application, an initial kill of 90 percent or over may be secured. Care must be exercised so that crops and other vegetation are not damaged. The cost varies from $10 to $30 per acre. Extensive experimentation on this method of attack has been carried out by local interests, the Department of Agriculture, and the Corps of Engineers.

9. Under the existing authorization, the scope of the work is limited to combating the water-hyacinth on navigable waters where navigation is obstructed. For any program leading to the permanent eradication of obnoxious aquatic plants, the scope of the work should be expanded to include all such plants in any locality where they exist. As outlined above, the annual damage caused by these plants in Louisiana alone has averaged nearly $38 million and the annual cost of combating the growths has increased from $18,000 in 1920 to an estimated $407,900 for the fiscal year 1949. It is therefore reasonable to assume that unless some method is developed which will lead to the ultimate eradication, or at least widespread control, of the obnoxious aquatic growths, the cost of clearing the navigable waters will steadily increase.

10. The plan which at this time appears the most suitable provides for a continuation of the methods presently employed supplemented by additional methods which may be developed in cooperation with other Federal, State, and local agencies. It is believed that improved procedures and techniques can be evolved so that after a few years a more precise determination can be made of the required scope and cost of the final program. Such an interim program can be achieved with moderately increased appropriations and authorities and it is believed that substantial progress can be made during this period. The plan includes the early attack on and eradication of the scattered infestations in Texas, Georgia, and other States before they become a costly problem. The success of any method of permanently eradicating the obnoxious aquatic growths, however, is dependent upon the enactment of adequate laws to prohibit the sale and transportation of the plants, and expansion of the existing authorization to include the eradication of all obnoxious aquatic plants in any locality where such plants exist.

11. The Board concludes that present information is sufficient to justify the expansion of the scope of operations for 5 years for extermination of the water hyacinth, alligator weed, and other obnoxious aquatic plants; that large benefits will result in the interest of navigation and commerce, flood control, drainage, agriculture, fish and wildlife conservation, public health, and allied interests; that no fixed conditions of local cooperation should be imposed, but that the Chief of Engineers should be authorized to prescribe such conditions of local cooperation as in his discretion may be proper; and that the States affected should be encouraged to enact laws prohibiting the sale and transportation within their boundaries of obnoxious aquatic plants.

12. Accordingly, the Board of Engineers for Rivers and Harbors recommends modification of the existing project to provide for control and progressive eradication of the water-hyacinth, alligator weed, and other obnoxious aquatic plant growths from the navigable waters, tributary streams, connecting channels, and other waters and areas in the States of North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, and Texas, at an estimated cost to the United States of $1,520,000 annually for 5 years, to be administered by the Corps of Engineers, Department of the Army, in cooperation with other Federal, State, and local governmental agencies, all generally in accordance with the methods set forth in this report and with such modifications thereof as in the discretion of the Chief of Engineers may be advisable subject to the provision that the Chief of Engineers may require such local cooperation as he may deem appropriate.

R. C. CRAWFORD,
Major General, Chairman
(For the Board).

Enclosures returned, no change.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

TITLE 18, UNITED STATES CODE

CHAPTER 3

* * * * * * *

§ 46. Transportation of water hyacinths.

(a) Whoever knowingly delivers or receives for transportation, or transports, in interstate commerce, alligator grass (alternanthera philoxeroides), or water chesnut plants (trapa natans) or water-hyacinth plants (eichhornia crassipes) or the seeds of such grass or plants; or

(b) Whoever knowingly sells, purchases, barters, exchanges, gives, or receives any grass, plant, or seed which has been transported in violation of subsection (a); or

(c) Whoever knowingly delivers or receives for transportation, or transports, in interstate commerce, an advertisement, to sell, purchase, barter, exchange, give, or receive alligator grass or water chestnut plants for water hyacinth plants or the seeds of such grass or plants—

Shall be fined not more than $500, or imprisoned not more than six months, or both.

[Chapter 3. Animals, birds, and fish]

Chapter 3. Animals, birds, fish, and plants.

[CHAPTER 3. ANIMALS, BIRDS, AND FISH]

CHAPTER 3. ANIMALS, BIRDS, FISH, AND PLANTS

46. Transpo tation of water hyacinths.

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Calendar No. 2780

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2732

INCREASING THE FEES OF WITNESSES IN UNITED STATES COURTS AND BEFORE UNITED STATES COMMISSIONERS

JULY 20 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. EASTLAND, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 11653]

The Committee on the Judiciary, to which was referred the bill (H. R. 11653) to increase the fees of witnesses in the United States courts and before United States commissioners, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to increase the subsistence allowance for witnesses in United States courts and before United States commissioners from $5 to $8 per day, to increase the payments for mileage from 7 to 8 cents per mile, and to authorize the computation of mileage on the basis of a uniform table of distances adopted by the Attorney General.

STATEMENT

The proposed legislation, requested by the Department of Justice, would make the following changes in section 1821, entitled "Per diem and mileage generally; subsistence," of title 18 of the United States Code:

Subsistence allowance for witnesses would be increased from $5 to $8 per day;

Mileage payments for witnesses would be increased from 7 cents to 8 cents per mile;

The provision would be added that: "Regardless of the mode of travel employed by the witness, computation of mile-

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age under this section shall be made on the basis of a uniform table of distances adopted by the Attorney General"; and

The language designating the witnesses covered by the section would be changed from:

> A witness attending in any court of the United States or before a United States commissioner or person taking his deposition pursuant to any order of a court of the United States.

to read:

> A witness attending in any court of the United States, or before a United States commissioner, or before any person authorized to take his deposition pursuant to any rule or order of a court of the United States.

The present witness fee of $4 per day would remain unchanged.

In support of the increase in the subsistence allowance and the mileage payment, the Department of Justice, in a letter printed in full below, cites the general increase in living costs and the cost of transportation since the establishment of the present rates in 1949.

In support of the computation of mileage on the basis of a uniform table of distances adopted by the Attorney General, the Department points out that under existing law one witness traveling by automobile and another traveling by air would be paid different amounts.

The committee believes that the proposed legislation is meritorious and recommends it favorably.

Attached and made a part of this report is a letter, dated May 31, 1956, from the Department of Justice.

DEPARTMENT OF JUSTICE,
Washington, D. C., May 31, 1956.

The VICE PRESIDENT,
United States Senate, Washington, D. C.

DEAR MR. VICE PRESIDENT: The Department of Justice recommends the enactment of legislation to authorize the adoption of a single uniform table of distances to be used as the basis for the computation of mileage allowances for witnesses and to provide an increase in certain of the other fees payable to such witnesses.

The proposal would authorize the adoption of a single uniform mileage table. Automobile mileages are readily available and railroad mileages are comparatively easy to obtain, but it has been impossible to obtain from Government agencies or private sources airplane mileage tables in sufficient detail to serve as the basis of mileage payments to witnesses. Under existing law, one witness coming by automobile and another by air would be paid different amounts. There is congressional authority for the Department of Defense to adopt a similar table for use in computing travel allowances for military personnel (37 U. S. C. 253).

Existing law provides that witnesses attending in any court of the United States or before a United States commissioner or before any person authorized to take his deposition shall receive 7 cents per mile for going from and returning to his place of residence. The statute

also provides for the payment to a witness of an attendance fee of $4 for each day's attendance and $5 per day for expenses of subsistence. It is recommended that the mileage rate be increased to 8 cents per mile and the allowance for expenses of subsistence be increased to $8 per day.

The subsistence ($5) and the mileage (7 cents) now prescribed by 28 United States Code 1821, were established by the act of May 10, 1949. The increase in these rates is recommended on the basis of the general increase in living costs and the cost of transportation which have taken place since that time. The proposed subsistence rate of $8, together with the attendance fee of $4 would equal the $12 subsistence rate approved for Government employees by the act of July 28, 1955, and also that approved for witnesses before congressional committees by Senate Resolution 143, adopted on July 30, 1955. The Senate report (S. Rept. 348, 84th Cong.) on that measure contains the following statement in support of a proposed $13 rate:

"The rate of $13 provided by this enactment is based on an allowance of $7.30 for hotel room, $4.50 for meals, and $1.20 for incidental expenses. These amounts are based on the following:

"*Hotel costs.*—A large hotel accounting firm found upon a study of room rates of 375 hotels used by businessmen in traveling, that the average room rate for a single room during 1954 was $7.30.

"*Cost of meals.*—The allowance of $4.50 is based upon a similar study and allocates $1 for breakfast, $1.25 for luncheon, and $2.25 for dinner. Two hotel accounting firms report that the price of hotel and restaurant meals has increased not less than 20 percent since 1949."

A draft of a bill to carry out the foregoing recommendations is enclosed.

Your assistance in securing the introduction of this measure and its final enactment will be greatly appreciated.

The Bureau of the Budget has advised that there is no objection to the submission of this recommendation.

Sincerely,

———— ————, *Attorney General.*

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (new matter is shown in italic, existing law in which no change is proposed is shown in roman, matter to be stricken is enclosed in brackets):

SECTION 1821, TITLE 28, UNITED STATES CODE

§ 1821 Per diem and mileage generally; subsistence

A witness attending in any court of the United States, or before a United States Commissioner, or *before any* person [taking] *authorized to take* his deposition pursuant to any *rule or* order of a court of the United States, shall receive $4 for each day's attendance and for the time necessarily occupied in going to and returning from the same, and [7] *8* cents per mile for going from and returning to his place of residence. *Regardless of the mode of travel employed by the witness, computation of mileage under this section shall be made on the basis of a*

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uniform table of distances adopted by the Attorney General. Witnesses who are not salaried employees of the Government and who are not in custody and who attend at points so far removed from their respective residences as to prohibit return thereto from day to day shall be entitled to an additional allowance of [$5] *$8* per day for expenses of subsistence including the time necessarily occupied in going to and returning from the place of attendance: Provided, That in lieu of the mileage allowance provided for herein, witnesses who are required to travel between the Territories, possessions, or to and from the continental United States, shall be entitled to the actual expenses of travel at the lowest first-class rate available at the time of reservation for passage, by means of transportation employed: Provided further, That this section shall not apply to Alaska.

When a witness is detained in prison for want of security for his appearance, he shall be entitled, in addition to his subsistence, to a compensation of $1 per day.

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Calendar No. 2783

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2735

NEW YORK-NEW JERSEY-CONNECTICUT AIR POLLUTION STUDY COMPACT

JULY 20 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. EASTLAND, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. J. Res. 511]

The Committee on the Judiciary, to which was referred the resolution (H. J. Res. 511), granting the consent of Congress to the States of New York, New Jersey, and Connecticut to confer certain additional powers upon the Interstate Sanitation Commission, established by said States pursuant to Public Resolution 62, 74th Congress, August 27, 1935, having considered the same, reports favorably thereon without amendment and recommends that the resolution be agreed to.

PURPOSE

The purpose of the proposed legislation is to grant the consent of Congress to the States of New York, New Jersey, and Connecticut to confer upon the Interstate Sanitation Commission the power to make studies of smoke and air pollution in the area embracing, generally, portions of those States.

STATEMENT

The facts in connection with this legislation are fully set forth in the House report accompanying this resolution, and are as follows:

Back in 1935 Congress approved an interstate compact between the States of New York, New Jersey, and Connecticut for the purpose of abating existing water pollution and controlling future pollution in waters around New York Harbor and the boundaries of the three States. Pursuant to the compact, the three States set up the Interstate Sanitation Commission.

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In recent years, however, air pollution has become a serious problem in many parts of the country, and particularly in the area concerning the waters of New York Harbor which are heavily industrialized and are so rapidly growing as residential areas.

In both New York and New Jersey there are local authorities who have been concerned with this problem but the problem is an interstate one and requires the joint action of both States for effective study and control.

The States of New York and New Jersey desire to have the Interstate Sanitation Commission make a preliminary basic study of this interstate air-pollution problem and have appropriated funds for that purpose. Connecticut, the third party to the original compact, is not primarily concerned with the air-pollution problems in lower New York Harbor. However, it is willing that the Commission be authorized to make the study, if the Congress consents, provided that Connecticut does not become financially liable for such undertaking.

Made a part of this report are the laws of New York, New Jersey, and Connecticut, authorizing the Interstate Sanitation Commission to make a study of smoke and air pollution.

[State of New York ch. 286, Laws of 1956, approved April 3, 1956]

AN ACT Authorizing and empowering the inter-state sanitation commission to make a study of smoke and air pollution and making an appropriation therefor and repealing chapter four hundred twenty-two of the laws of nineteen hundred fifty-five, entitled "An act authorizing and empowering the inter-state sanitation commission to make a study of smoke and air pollution and making an appropriation therefor and repealing chapter three hundred twenty-one of the laws of nineteen hundred fifty-four entitled 'An act authorizing and empowering the interstate sanitation commission to make a study of smoke and air pollution; and making an appropriation therefor and repealing chapter four hundred fifty-four of the laws of nineteen hundred fifty-two, entitled "An act authorizing and empowering the interstate sanitation commission to make a study of smoke and air pollution; and making an appropriation therefor" ' "

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The interstate sanitation commission is hereby authorized and empowered to make a comprehensive study of smoke and air pollution in the areas of New York and New Jersey specified in section three of chapter three of the laws of nineteen hundred thirty-six and the problems caused thereby. The study shall include a survey of the sources and extent of such pollution, property damage caused thereby, its effect upon public health and comfort, and relevant meteorological, climatological and topographical factors.

§ 2. For the accomplishment of the study, the commission shall have power to appoint and remove its own officers and staff, prescribe the duties of such employees and fix their compensation within the appropriations available therefor.

§ 3. The commission shall make a report to the governor and the legislature on or before February first, nineteen hundred fifty-seven. The report shall set forth the findings of the commission, its recommendations for a smoke and air pollution control program and a plan for the administration of such a program by an appropriate agency. It shall also include a study and evaluation of existing laws in the states of New York, New Jersey, Connecticut and in other jurisdictions

relating to smoke and air pollution and drafts of proposed legislation to carry out the recommendations of the commission.

§ 4. The sum of thirty thousand dollars ($30,000), or so much thereof as may be necessary is hereby appropriated to the interstate sanitation commission from any moneys in the state treasury in the general fund to the credit of the state purposes fund, not otherwise appropriated, for the purposes set forth in this act, including personal service and other necessary expenses, payable on vouchers certified or approved by the chairman of the interstate sanitation commission with the approval of the director of the budget in the manner prescribed by law.

§ 5. Chapter four hundred twenty-two of the laws of nineteen hundred fifty-five, entitled "An act authorizing and empowering the inter-state sanitation commission to make a study of smoke and air pollution and making an appropriation therefor and repealing chapter three hundred twenty-one of the laws of nineteen hundred fifty-four, entitled 'An act authorizing and empowering the interstate sanitation commission to make a study of smoke and air pollution; and making an appropriation therefor and repealing chapter four hundred fifty-four of the laws of nineteen hundred fifty-two, entitled "An act authorizing and empowering the interstate sanitation commission to make a study of smoke and air pollution; and making an appropriation therefor" ' " is hereby repealed.

§ 6. This act shall take effect immediately.

[*The above act continued the authorization, contained in chapter 422, laws of New York 1955, for the Interstate Sanitation Commission to make a study and report on smoke and air pollution. Under the 1955 act, the report had to be submitted by February 1, 1956. The instant act extends the time until February 1, 1957.*]

[State of New Jersey. Ch. 46 Public Law 1955. Approved June 6, 1955. as amended by Ch. 23. Public Law 1956. approved May 7, 1956]

AN ACT Authorizing and empowering the Interstate Sanitation Commission to make a study of smoke and air pollution; and providing a means for the payment of the cost thereof

Be it enacted by the Senate and General Assembly of the State of New Jersey:

1. The Interstate Sanitation Commission is hereby authorized and empowered to make a comprehensive study of smoke and air pollution in the areas of New York and New Jersey specified in section 32: 19–3 of the Revised Statutes and the problems caused thereby. The study shall include a survey of the sources and extent of such pollution, property damage caused thereby, its effect upon public health and comfort, and relevant meteorological, climatological, and topographical factors.

2. For the accomplishment of the study, the commission shall have power to appoint and remove its own officers and staff, prescribe the duties of such employees and fix their compensation within the appropriations available therefor.

3. The commission shall make a report to the Governor and the Legislature on or before February 1, 1957. The report shall set forth the findings of the commission, its recommendations for a

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smoke- and air-pollution-control program and a plan for the administration of such a program by an appropriate agency. It shall also include a study and evaluation of existing laws in the States of New York, New Jersey, Connecticut, and in other jurisdictions relating to smoke and air pollution and drafts of proposed legislation to carry out the recommendations of the commission.

4. There is appropriated to the Interstate Sanitation Commission for the purposes of this Act a sum not to exceed $30,000.00 when included in an annual or supplemental appropriation act or otherwise made available to the commission.

5. This act shall take effect when the State of New York enacts similar legislation and similarly makes available funds for the cost thereof.

[*The 1956 amendment extended the time for the submission of the Commission's report to the Governor from February 1, 1956 to February 1, 1957. In accordance with section 2 of the Amending Act, the amendment became effective "immediately."*]

[State of Connecticut, special session, November 1955, Public Act No. 27]

AN ACT Concerning a study of smoke and air pollution by the Interstate Sanitation Commission

Be it enacted by the Senate and House of Representatives in General Assembly convened:

SECTION 1. Subject to approval by the Congress of the United States, the interstate sanitation commission is authorized and empowered to make a study of smoke and air pollution within the boundaries of New Jersey and New York, such study to include a survey of the sources and extent of such pollution, property damage caused thereby, its effect upon public health and comfort and relevant meteorological, climatological and topographical factors. For the accomplishment of the study, the commission shall have power to appoint and remove, and prescribe the duties of, such employees and staff as may be necessary, and to fix their compensation within the appropriations made available therefor by the states of New Jersey and New York.

SEC. 2. The state of Connecticut shall not be liable for any portion of the expenditures necessary for the undertaking or completion of such study and shall not be called upon to appropriate any funds for such purpose.

SEC. 3. This act shall take effect from its passage.

[*Became a law December 13, 1955, with the approval of the Governor.*]

The committee, after consideration, agrees with the conclusion reached by the House of Representatives and, therefore, recommends favorable consideration of the resolution.

Attached hereto and made a part hereof are reports from the Departments of Commerce, Justice, Air Force, and Interior submitted in connection with this legislation.

THE SECRETARY OF COMMERCE,
Washington, March 23, 1956.

Hon. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.

DEAR MR. CHAIRMAN: This letter is in reply to your request of February 7, 1956, requesting the views of this Department with respect to House Joint Resolution 511, a resolution—

"Granting the consent of Congress to the States of New York, New Jersey, and Connecticut to confer certain additional powers upon the Interstate Sanitation Commission, established by said States pursuant to Public Resolution 62, 74th Congress, August 27, 1935."

The resolution would grant consent of Congress to the States of New Jersey, New York, and Connecticut, conferring upon the Interstate Sanitation Commission power to make studies of smoke and air pollution within any or all of the territory served by the Commission.

It is our understanding that the purpose of this resolution is to enable a study to be made of the local air-pollution problem in the New York Harbor area without requiring the State of Connecticut to be involved.

This Department would interpose no objection to enactment of House Joint Resolution 511.

It should be noted that under Public Law 159, 84th Congress (69 Stat. 322), the Federal Government is authorized to cooperate in investigations of community air-pollution problems.

We have been advised by the Bureau of the Budget that it would interpose no objection to the submission of this report to your committee.

Sincerely yours,

SINCLAIR WEEKS,
Secretary of Commerce.

DEPARTMENT OF JUSTICE,
March 21, 1956.

Hon. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice concerning the resolution (H. J. Res. 511) "Granting the consent of Congress to the States of New York, New Jersey, and Connecticut to confer certain additional powers upon the Interstate Sanitation Commission, established by said States pursuant to Public Resolution 62, 74th Congress, August 27, 1935."

The resolution would give to the States concerned the consent of Congress to confer upon the Interstate Sanitation Commission the power to make studies of smoke and air pollutions within any or all of the territory served by said Commission, such studies to include surveys of the sources and extent of such pollution, property damage caused thereby, the effect upon public health and comfort and relevant meteorological, climatological, and topographical factors.

Whether the terms of the resolution should be agreed to is a matter

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of policy on which the Department of Justice prefers to make no recommendation.

The Bureau of the Budget has advised that there is no objection to the submission of this report.

Sincerely,

WILLIAM P. ROGERS,
Deputy Attorney General.

DEPARTMENT OF THE AIR FORCE,
OFFICE OF THE SECRETARY,
Washington, March 24, 1956.

Hon. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives.

DEAR MR. CHAIRMAN: I refer to your request to the Secretary of Defense for the views of the Department of Defense on House Joint Resolution 511, a joint resolution "Granting the consent of Congress to the States of New York, New Jersey, and Connecticut to confer certain additional powers upon the Interstate Sanitation Commission, established by said States pursuant to Public Resolution 62, 74th Congress, August 27, 1935." The Secretary of Defense has delegated to this Department the responsibility for expressing the views of the Department of Defense.

The purpose of this resolution is to obtain the consent of Congress for the States of New York, New Jersey, and Connecticut to confer upon the Interstate Sanitation Commission the power to make studies of smoke and air pollutions, such studies to include surveys of the sources and extent of such pollution, property damage caused thereby, the effect upon public health and comfort and relevant meteorological, climatological, and topographical factors.

This resolution will not affect any activities of the Department of Defense and consequently this Department neither favors nor opposes its enactment.

The enactment of House Joint Resolution 511 will have no fiscal effect on the Department of Defense.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Bureau of the Budget has advised that there is no objection to the submission of this report.

Sincerely yours,

DONALD A. QUARLES.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D. C., April 18, 1956.

Hon. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.

MY DEAR MR. CELLER: This is in reply to your request for the views of this Department on House Joint Resolution 511, a joint resolution "Granting the consent of Congress to the States of New York, New Jersey, and Connecticut to confer certain additional powers

upon the Interstate Sanitation Commission, established by said States pursuant to Public Resolution 62, Seventy-fourth Congress, August 27, 1935."

We recommend that House Joint Resolution 511 be enacted.

The joint resolution of August 27, 1935 (49 Stat. 932), granted the consent of Congress to the States of New Jersey, Connecticut, and New York to enter into a compact for the creation of the Interstate Sanitation District and the establishment of the Interstate Sanitation Commission. The joint resolution was concerned with pollution in tidal and coastal waters. House Joint Resolution 511 would amend the 1935 joint resolution to permit the Commission to make studies of smoke and air pollution within the territory served by the Commission.

We have no objection to an extension of the Commission's authority. Enactment of House Joint Resolution 511 would have no immediate bearing on air-pollution activities conducted by this Department through its Bureau of Mines. However, we believe that the enactment of this joint resolution would be a forward step in the attempt to solve the problems of air pollution which occur in the area involved which has such a dense population and high degree of industrialization.

The Bureau of the Budget has advised that there is no objection to the submission of this report to your committee.

Sincerely yours,

F. E. WORMSER,
Acting Secretary of the Interior.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

PUBLIC RESOLUTION 62, 74TH CONGRESS

(49 Stat. 932, 938)

* * * * * * *

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is hereby given to the States of New York, New Jersey, and Connecticut to enter into the compact hereinbefore recited, and to each and every part and article thereof: *Provided*, That nothing contained in such compact shall be construed as empowering or in any manner affecting any right or jurisdiction of the United States in and over the region which forms the subject of such compact.

[SEC. 2. The right to alter, amend, or repeal this joint resolution is hereby expressly reserved.]

SEC. 2. The further consent of Congress is given to the States of New York, New Jersey and Connecticut to confer upon the Interstate Sanitation Commission, in accordance with chapter 286 of the laws of New York (1956); chapter 46 of the laws of New Jersey (1955) as amended by chapter 23 (1956); and Public Act 27 of the laws of Connecticut (1955).

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the power to make studies of smoke and air pollution within any and all of the territory served by the Commission. Such studies shall include surveys of the sources and extent of the pollution, property damage caused thereby, the effect upon public health and comfort, and relevant meteorological, climatological, and topographical factors.

SEC. 3. The right to alter, amend or repeal this act, as amended, is hereby, expressly reserved.

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Calendar No. 2785

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2737

EXTENDING CRIME CONTROL CONSENT ACT TO FEDERAL TERRITORIES AND POSSESSIONS

JULY 20 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. EASTLAND, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 5274]

The Committee on the Judiciary, to which was referred the bill (H. R. 5274) extending to the Commonwealth of Puerto Rico the power to enter into certain interstate compacts relating to the enforcement of the criminal laws and policies of the States, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

AMENDMENT

Amend the title to read:

> Extending to Alaska, Hawaii, the Commonwealth of Puerto Rico, the Virgin Islands, and the District of Columbia the power to enter into certain interstate compacts relating to the enforcement of the criminal laws and policies of the States.

PURPOSE

The purpose of the proposed legislation, as amended, is to permit the Commonwealth of Puerto Rico, the Territory of Alaska, the Territory of Hawaii, the Virgin Islands, and the District of Columbia to become participating members of the so-called Crime Control Consent Act among the States.

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STATEMENTS

A full discussion of the aims and purposes of this proposed legislation is set forth in House Report No. 1948 on H. R. 5274, and is as follows:

[H. Rept. 1948, 84th Cong., 2d sess.]

Section 111 of title 4 of the United States Code embodies the consent of Congress to agreements between the several States on crime control. Since congressional consent is given to the "States," the question arises as to whether Federal Territories and possessions are considered "States" within the meaning of that term.

In order to resolve this issue, the present bill proposes a definition of the term "State" so as to include Federal Territories within the provision of the so-called Crime Control Consent Act by providing "for the purpose of this section, the term 'States' means the several States and Alaska, Hawaii, the Commonwealth of Puerto Rico, the Virgin Islands, and the District of Columbia."

It should be pointed out that this legislation in no way affects the substantive provisions of the present Federal law relating to interstate compacts for the supervision of parolees and probationers under the provisions of the Crime Control Consent Act (4 U. S. C. 111). Its only purpose is to permit Federal Territories to become participating members under the statute. It should be noted that the legislation is only an authorization and is not mandatory. It leaves the final determination of whether to become a participating member of the compact up to the Territories and possessions.

In order that those interested in this legislation may be aware of the basic law on this subject, a short statement on the Crime Control Consent Act follows:

In 1934 the Congress passed the act for the purpose of granting consent to agreements or compacts among the States for cooperative effort and mutual assistance in the prevention of crime and in the enforcement of criminal laws and policies. Shortly thereafter, the States worked out what has become the interstate compact for the supervision of parolees and probationers. As of today every State, through its legislature, has ratified the compact and is participating in its operation.

The compact calls for interstate cooperation in parole and probation supervision, and provides simple, businesslike, and constitutionally sound methods for granting probationers and parolees privileges of moving outside the State in which they were sentenced to other jurisdictions where they may have better opportunities for adjustment, with full protection to society. Prior to the drafting of this compact, there were some 10,000 parolees living outside the State of their offense without enforcible control or supervision. Today there are well over 12,000 such persons handled under the terms of the compact and they are now fully supervised and subject to the same controls that all local parolees and probationers

must meet. Briefly, this legal agreement between and among the States involves the following steps:

(1) Any State will permit a person from another State to return on parole or probation if he is a resident or has his family residing in the State, and if he can secure employment. If residence cannot be shown, transfer of supervision may still be obtained through mutual consent of the States.

(2) The State consenting to a transfer of an out-of-State parolee or probationer to its supervisory charge agrees to exercise the same care and treatment as its State standards provide for supervising its own probationers and parolees.

(3) If a State desires to retake an offender for any reason, an accredited officer of that State may apprehend any such person in another State without any formalities other than establishing his authority and proving the identity of the person to be retaken.

The compact has worked successfully and has proved its worth. Moreover, it is shown that the States, in this instance, have successfully worked out common problems which transcend State lines. It is now felt that the provisions of this interstate parole and probation compact should be expanded to permit participation by other jurisdictions which are part of the United States. The Federal Territories and possessions should be permitted, if they so wish, to join with all the 48 States in providing more effective law enforcement through better supervision of parolees and probationers.

"STATE" AS APPLIED TO INTERSTATE COMPACTS

The question arose as to whether a Federal Territory was a State, within the meaning of the Constitution, which provides that "No State shall, without the Consent of Congress, * * * enter into any Agreement or Compact with another State or with a foreign Power * * *". After a consideration of the authorities, the committee is of the opinion that such Territories and possessions are to be regarded as "States" for the purposes of interstate compacts.

The courts have indicated that the word "State" as used in the Constitution encompasses the Territories of the United States for various specific purposes. In *Downes* v. *Bidwell* (182 U. S. 244), the Court stated that the word "State" in article I, section 8 of the Constitution relating to the apportionment of direct taxes among the States applied to the District of Columbia. In *Mulloney* v. *Anderson* (342 U. S. 415), the Court stated that the guaranty of privileges and immunities which the several States must observe (art. IV, sec. 2) included the Territory of Alaska. It also held, in upholding the constitutionality of the act of 1940 (54 Stat. 143) that "State" as used in article III, section 2 of the Constitution conferring diversity of citizenship jurisdiction on the Federal courts includes the Territories and the District of Columbia (*National Insurance Co.* v. *Tidewater Co.*, 337 U. S. 582).

The United States Government itself has entered into compacts with States (*Dyer* v. *Sims*, 341 U. S. 22). Since

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the Congress possesses the combined powers of a General and of a State government over Territories and possessions, in all cases where legislation is possible (*Stoutenburgh v. Hennick*, 129 U. S. 141), it would seem to follow that the Congress, on behalf of its Territories and possessions, may enter into compacts with States.

In practice, Federal Territories have in the past become parties to interstate compacts. The District of Columbia, for example, has been a party to the Potomac River compact of 1940 (54 Stat. 748). In 1954, a joint resolution was adopted (68 Stat. 59) granting consent to a negotiation of civil defense compacts between the District of Columbia and any State, and in still another instance, Congress gave its consent to a compact relating to higher education between certain States and the Territories of Alaska and Hawaii (67 Stat. 490).

APPROVAL OF LEGISLATION

This legislation has the approval of the Department of the Interior. In addition, it has the approval of the Association of Parole and Probation Compact Administrators, as well as the Council of State Governments.

The committee, after consideration, concurs in the action of the House of Representatives and the favorable recommendations contained in the reports of the Department of the Interior, the Association of Parole and Probation Compact Administrators, and the Council of State Governments and, accordingly, recommends the bill, H. R. 5274, as amended, to the favorable consideration of the Senate.

Attached hereto and made a part hereof are the various reports hereinbefore referred to.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D. C., September 16, 1955.

Hon. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.

MY DEAR MR. CELLER: This is in response to your request for the views of this Department on H. R. 5274, a bill extending to the Commonwealth of Puerto Rico the power to enter into certain interstate, compacts relating to the enforcement of the criminal laws and policies of the States.

We recommend that the bill be enacted in the amended form proposed herein.

If enacted, H. R. 5274 would amend section 111 of title 4, United States Code, to extend its provisions to include Puerto Rico. This section authorizes "two or more States to enter into agreements or compacts for cooperative effort and mutual assistance in the prevention of crime and in the enforcement of their respective criminal laws and policies, and to establish such agencies, joint or otherwise, as they may deem desirable for making effective such agreements and compacts." Subsection (b) of the bill would include Puerto Rico within the definition of the term "States" as used in the section quoted above.

It is our view that the purpose of the bill is in accord with current policies of the Federal Government as it relates to the Commonwealth of Puerto Rico. The Commonwealth now exercises certain powers almost identical with those of the States in connection with criminal law enforcement, and it would seem proper that it should have authority similar to that of the States to enter into agreements with them in an effort to meet its responsibilities in the most effective way possible.

The proposed amendment to the bill which is mentioned in your letter would delete all of subsection (b) of the bill and substitute therefor the following language:

"For the purpose of this section the term 'States' means the several States and Alaska, Hawaii, Puerto Rico, the Virgin Islands, and the District of Columbia."

The purpose of the amendment is to extend the provisions of section 111 of title 4, United States Code, to the named Territories and possessions. We believe that the public interest would be best served by as wide an application of authorities contained in this section as is possible and we are thus in accord with the purpose of the proposed amendment. However, we believe that the authority of the basic act to be amended should be made available to all of the possessions of the United States, which include Guam and American Samoa in addition to those named in the amendment proposed in your letter. We recommend, therefore, that H. R. 5274 be amended by adding a comma after the word "States" in line 8, and inserting the words, "the District of Columbia, the Territories and possessions of the United States, and the Commonwealth of Puerto Rico."

The Bureau of the Budget has advised that there is no objection to the submission of this report to your committee.

Sincerely yours,

FRED G. AANDAHL,
Assistant Secretary of the Interior.

JULY 12, 1955.

Hon. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice relative to the bill (H. R. 5274) extending to the Commonwealth of Puerto Rico the power to enter into certain interstate compacts relating to the enforcement of the criminal laws and policies of the States.

Section 111 of title 4 of the United States Code provides as follows:

"The consent of Congress is hereby given to any two or more States to enter into agreements or compacts for cooperative effort and mutual assistance in the prevention of crime and in the enforcement of their respective criminal laws and policies, and to establish such agencies, joint or otherwise, as they may deem desirable for making effective such agreements and compacts."

The bill would amend the section by adding a subsection stating that:

"For the purpose of this section, the term 'States' means the several States and the Commonwealth of Puerto Rico."

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Whether it is desirable for the Congress to give its advance consent to the entry of Puerto Rico into compacts or agreements with various of the States is a question of policy concerning which the Department of Justice prefers to make no recommendation. However, it should be noted that section 111 of title 4 of the United States Code was enacted pursuant to the authority contained in article I, section 10, paragraph 3 of the Constitution, which provides that "No State shall, without the Consent of Congress, * * * enter into any Agreement or Compact with another State, * * *." Without attempting to resolve the question of whether Puerto Rico can be considered a State within the meaning of this constitutional provision, and consequently whether it can be brought within the definition of the term "States" as used in section 111 of title 4 of the United States Code, the matter is raised for the consideration of the committee.

The Bureau of the Budget has advised that there is no objection to the submission of this report.

Sincerely,

WILLIAM P. ROGERS,
Deputy Attorney General.

MAY 17, 1955.

Hon. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.

MY DEAR MR. CELLER: Reply is made to your letter dated April 20, 1955, in regard to H. R. 5274, a bill extending to the Commonwealth of Puerto Rico the power to enter into certain interstate compacts relating to the enforcement of the criminal laws and policies of the States.

As proposed to be amended the bill would apply section 111, title 4, of the United States Code, not only to the States but to Alaska, Hawaii, Puerto Rico, the Virgin Islands, and the District of Columbia.

Section 111 of title 4 reads as follows:

"The consent of Congress is hereby given to any two or more States to enter into agreements or compacts for cooperative effort and mutual assistance in the prevention of crime and in the enforcement of their respective criminal laws and policies, and to establish such agencies, joint or otherwise, as they may deem desirable for making effective such agreements and compacts" (May 24, 1949, ch. 139, sec. 129 (b), 63 Stat. 107).

The Commissioners have received the following comments from the District of Columbia Board of Parole:

"It is the view of the members of the Board of Parole that it would be advisable to extend to the District of Columbia the power to enter into interstate compacts relating to the enforcement of the criminal laws and policies of the States. At the present time we are engaging in reciprocal parole services with the majority of the States in this country on a purely cooperative basis. It is possible that it would be more desirable if these reciprocal arrangements could be conducted under the provisions of interstate compacts which exist on this subject. If the District of Columbia were empowered to enter into such compacts with the other States, it is possible that the Board of Parole might at some future time recommend that the Dis-

trict of Columbia become a participating member in such interstate compacts."

In view of the comments of the Board of Parole the Commissioners are pleased to recommend favorable action on the bill as proposed to be amended.

The Commissioners have been advised by the Bureau of the Budget that there is no objection on the part of that office to submission of this report to the Congress.

Yours very sincerely,

SAMUEL SPENCER.
President, Board of Commissioners, District of Columbia.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

TITLE 4, UNITED STATES CODE

§111. Compacts between States for cooperation in prevention of crime; consent of Congress.

(*a*) The consent of Congress is hereby given to any two or more States to enter into agreements or compacts for cooperative effort and mutual assistance in the prevention of crime and in the enforcement of their respective criminal laws and policies, and to establish such agencies, joint or otherwise, as they may deem desirable for making effective such agreements and compacts.

(*b*) *For the purpose of this section, the term "States" means the several States and Alaska, Hawaii, the Commonwealth of Puerto Rico, the Virgin Islands, and the District of Columbia.*

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